State of New Jersey
Office of the Attorney General
Division of Consumer Affairs

CONSUMER FRAUD ACT

Study Guide

Revised 1/2009

Study Guide for the Consumer Fraud Act

Index

Consumer Fraud Act

(N.J.S.A. 56:8-1 et seq.)

Frauds, etc., in sales or advertisements or merchandise

56:8-1 Definitions.

1. (a) The term "advertisement" shall include the attempt directly or indirectly by publication, dissemination, solicitation, indorsement or circulation or in any other way to induce directly or indirectly any person to enter or not enter into any obligation or acquire any title or interest in any merchandise or to increase the consumption thereof or to make any loan;

(b) The term "Attorney General" shall mean the Attorney General of the State of New Jersey or any person acting on his behalf;

(c) The term "merchandise" shall include any objects, wares, goods, commodities, services or anything offered, directly or indirectly to the public for sale;

(d) The term "person" as used in this act shall include any natural person or his legal representative, partnership, corporation, company, trust, business entity or association, and any agent, employee, salesman, partner, officer, director, member, stockholder, associate, trustee or cestuis que trustent thereof;

(e) The term "sale" shall include any sale, rental or distribution, offer for sale, rental or distribution or attempt directly or indirectly to sell, rent or distribute;

(f) The term "senior citizen" means a natural person 60 years of age or older.

L.1960, c.39, s.1; amended 1967, c.301, s. 1; 1999, c.298, s.2

Temporary help services

56:8-1.1 Temporary help service; inclusion within definition of merchandise; rules, regulations; fees, charges on firms; transport of workers regulated.

14. Services provided by a temporary help service firm shall constitute services within the term "merchandise" pursuant to P.L.1960, c. 39, s. 1 (C. 56:8-1(c)), and the provisions of P.L.1960, c. 39, (C. 56:8-1 et seq.) shall apply to the operation of a temporary help service firm.

The Attorney General shall promulgate rules and regulations pursuant to P.L.1960, c. 39, s. 4 (C. 56:8-4). The Attorney General shall, by rule or regulation, establish, prescribe or change an annual fee or charge on temporary help service firms to such extent as shall be necessary to defray all proper expenses incurred by his office in the performance of its duties under this section of this act but such fees or charges shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required. In addition to

any other appropriate requirements, the Attorney General shall, by rule or regulation require the following:

a. Each temporary help service firm operating within the State of New Jersey shall, prior to the effective date of this act or commencement of operation and annually thereafter, notify the Attorney General as to its appropriate name, if applicable; the trade name of its operation; its complete address, including street and street number of the building and place where its business is to be conducted; and the names and resident addresses of its officers. Each principal or owner shall provide an affidavit to the Attorney General setting forth whether such principal or owner has ever been convicted of a crime.

b. When a temporary help service firm utilizes any location other than its primary location for the recruiting of applicants, including mobile locations, it shall notify the Office of the Attorney General of such fact in writing or by telephone, and subsequently confirm in writing prior to the utilization of such facility.

c. Each temporary help service firm shall at the time of its initial notification to the Attorney General, and annually thereafter, post a bond of $1,000.00 with the Attorney General to secure compliance with P.L.1960, c. 39 (C. 56:8-1 et seq.) as amended and supplemented, provided however that the Attorney General may waive such bond for any corporation or entity having a net worth of $100,000 or more.

d. Any temporary help service firm, as the term is used in P.L.1960, c.39 (C.56:8-1 et seq.), P.L. 1989, c.331 (C.34:8-43 et seq.) or this section, which places individuals in work which requires them to obtain transportation services to get to, or return from, the site of the work shall the subject to the provisions of this subsection, except that the provisions of this subsection shall not apply if the firm requires the individuals to use their own vehicles or other transportation of their choice, for transportation to and from work and shall not apply if public transportation is available at the times needed for them to get to, and to return from, the site of the work and the firm permits them to use the public transportation. If the firm provides transportation services with any vehicle owned under the control of the firm, the firm shall be responsible for compliance with the provisions of R. S. 48:4-3 et seq. and any other applicable law or regulation regarding the vehicle and its use and shall keep records in the manner required by regulations adopted by the Attorney General in consultation with the New Jersey Motor Vehicle Commission. If the firm does not provide transportation services, but refers, directs or requires the individuals to use any other provider or providers of transportation services, or provides no practical alternative to the use of services of the providers, the firm shall obtain, and keep on file, documentation that each provider is in compliance with the provisions of R.S. 48:4-3 et seq. and any other applicable law or regulation in the manner required by regulations adopted by the Attorney General in consultation with the New Jersey Motor Vehicle Commission. The firm may not require the individual to use transportation provided by the firm or another provider of transportation services if they have other transportation available. A failure to comply with the provisions of this subsection, including all record-keeping requirements of this subsection, shall be regarded as an unlawful practice and a violation of this section, of P.L. 1960, c39 (C.56:8-1 et seq.) and of R.S. 48:4-3 et seq. and a temporary help service firm found to be in violation shall be subject to penalties provided for violations of those acts,

and shall be jointly and severally liable with the provider of transportation services for any injury which occurs to the individuals while being transported in a vehicle owned, leased or otherwise under the control of the provider. In the case of noncompliance with the provisions of this section on more than one occasion, the Attorney General may suspend or revoke the firm's registration as a temporary help service firm for the purposes of this section, P.L. 1960, c.39 (C56:8-1 et seq.) and P.L. 1989, c.331 (C.34:8-43 et seq.).

L.1981, c.1, s. 14; amended 2007, c.14.

56:8-1.2 Unlawful withholding of diversion of wages by temporary help service firm; penalty.

1. It shall be an unlawful practice for a temporary help service firm, as the term use in P.L. 1960, c.39 (56:8-1 et seq.), section 14 of P.L. 1981, c.1 (C.56:8-1.1) and P.L. 1989, c. 331 (C.34:8-43 et seq.), to willfully withhold or divert wages for any purpose not expressly permitted by section 4 of P.L. 1965, c. 173 (C.34:11-4. 4). In addition to any fine or penalty, the Attorney General may refuse to issue or renew, and may suspend or revoke a firm's registration to operate as a temporary help service firm for the purpose of P.L. 1960, c. 39 (C.56:8-1 et seq.), section 14 of P. L. 1981, c. 1 (C. 56:8-1.1), P.L. 1989, c. 331 (C. 34:8-43 et seq.) and related regulations for a violation of this section. A refusal, suspension or revocation shall not be made except upon reasonable notice, and the opportunity to be heard by, the applicant or registrant.

L.2007, c.15

56:8-2. Fraud, etc., in connection with sale or advertisement of merchandise or real estate as unlawful practice

The act, use or employment by any person of any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing, concealment, suppression, or omission of any material fact with intent that others rely upon such concealment, suppression or omission, in connection with the sale or advertisement of any merchandise or real estate, or with the subsequent performance of such person as aforesaid, whether or not any person has in fact been misled, deceived or damaged thereby, is declared to be an unlawful practice; provided, however, that nothing herein contained shall apply to the owner or publisher of newspapers, magazines, publications or printed matter wherein such advertisement appears, or to the owner or operator of a radio or television station which disseminates such advertisement when the owner, publisher, or operator has no knowledge of the intent, design or purpose of the advertiser.

L.1960, c.39, p.138, s. 2. Amended by L. 1967, c.301, s. 2, eff. Feb. 15, 1968; L.1971, c.247, s. 1, eff. June 29, 1971; L. 1975,c. 294, s. 1, eff. Jan. 19, 1976.

56:8-2.1. Operation simulating governmental agency as unlawful practice

It shall be an unlawful practice for any person to operate under a name or in a manner which wrongfully implies that such person is a branch of or associated with any department or agency of the Federal Government or of this State or any of its political

subdivisions, or use any seal, insignia, envelope or other format which simulates that of any governmental department or agency.

L. 1968, c.448, s. 1, eff. Feb. 19, 1969.

56:8-2.2. Scheme to not sell item or service advertised

The advertisement of merchandise as part of a plan or scheme not to sell the item or service so advertised or not to sell the same at the advertised price is an unlawful practice and a violation of the act to which this act is a supplement.

L. 1969, c. 131, s.1.

56:8-2.3 Advertising plan involving notification of winning of prize and other requirements unlawful.

The notification to any person by any means, as a part of an advertising plan or scheme, that he has won a prize and requiring him to do any act, purchase any other item or submit to a sales promotion effort is an unlawful practice and a violation of the act to which this act is a supplement.

L. 1969, c. 131, s. 2.

56:8-2.4. Advertisement of unassembled merchandise as assembled in picture or illustration; prohibition

It shall be an unlawful practice for a person to advertise merchandise for sale accompanied by a picture or illustration of the merchandise in an assembled condition when it is intended to be sold unassembled, unless the advertisement bears the notation that the merchandise is to be sold unassembled.

L. 1973, c. 225, s.1.

56:8-2.5. Sale, attempt to sell or offer for sale of merchandise without tag or label with selling price

It shall be an unlawful practice for any person to sell, attempt to sell or offer for sale any merchandise at retail unless the total selling price of such merchandise is plainly marked by a stamp, tag, label or sign either affixed to the merchandise or located at the point where the merchandise is offered for sale.

L. 1973, c. 308, s.1.

56:8-2.6. Daily failure to tag as separate violation

For the purposes of this act, each day for which the total selling price is not marked in accordance with the provisions of this act for each group of identical merchandise shall constitute a separate violation of this act and the act of which this act is a supplement.

L. 1973, c. 308, s.2

56:8-2.7. Solicitation of funds or contributions, or sale or offer for sale of goods or services under false representation of solicitation for charitable or nonprofit organization or of benefit for handicapped persons

It shall be an unlawful practice for any person to solicit funds or a contribution of any kind, or to sell or offer for sale any goods, wares, merchandise or services, by telephone or otherwise, where it has been falsely represented by such person or where the consumer has been falsely led to believe that such person is soliciting by or on behalf of any charitable or nonprofit organization, or that a contribution to or purchase from such person shall substantially benefit handicapped persons.

L. 1975, c. 293, s. 1 eff. Jan. 9, 1976

56:8-2.8. "Going out of business sale"; time limits

It shall be an unlawful practice for any person to advertise merchandise for sale as a "going out of business sale" or in terms substantially similar to "going out of business sale" for a period in excess of 90 days or to advertise more than one such sale in 360 days. The 360-day period shall commence on the first day of such sale. For any person in violation of this act, each day in violation shall constitute an additional, separate and distinct violation.

L. 1979, c. 103, s.1

Misrepresentation of identity of food

56:8-2.9. Misrepresentation of identity of food in menus or advertisements of eating establishments

It shall be an unlawful practice for any person to misrepresent on any menu or other posted information, including advertisements, the identity of any food or food products to any of the patrons or customers of eating establishments including but not limited to restaurants, hotels, cafes, lunch counters or other places where food is regularly prepared and sold for consumption on or off the premises. This section shall not apply to any section or sections of a retail food or grocery store which do not provide facilities for on the premises consumption of food or food products.

L. 1979, c. 347, s.1.

56:8-2.10. Acts constituting misrepresentation of identity of food

The identity of said food or food products shall be deemed misrepresented if:

a. Its description is false or misleading in any particular;

b. Its description omits information which by its omission renders the description false or misleading in any particular;

c. It is served, sold, or distributed under the name of another food or food product;

d. It purports to be or is represented as a food or food product for which a definition of identity and standard of quality has been established by custom and usage unless it conforms to such definition and standard.

L. 1979, c. 347, s.2

56:8-2.11. Violations; liability

Any person violating the provisions of the within act shall be liable for a refund of all moneys acquired by means of any practice declared herein to be unlawful.

L. 1979, c. 347, s.3

56:8-2.12. Recovery of refund in private action

The refund of moneys herein provided for may be recovered in a private action or by such persons authorized to initiate actions pursuant to P.L.1975, c. 376 (C. 40:23-6.47 et seq.).

L. 1979, c. 347, s.4

56:8-2.13. Cumulation of rights and remedies; construction of act

The rights, remedies and prohibitions accorded by the provisions of this act are hereby declared to be in addition to and cumulative of any other right, remedy or prohibition accorded by the common law or statutes of this State, and nothing contained herein shall be construed to deny, abrogate or impair any such common law or statutory right, remedy or prohibition.

L. 1979, c. 347, s.5

Refund Policy Disclosure Act

56:8-2.14. Short title

This act shall be known and may be cited as the "Refund Policy Disclosure Act."

L. 1982, c. 29, s. 1.

56:8-2.15. Definitions

As used in this act:

a. "Merchandise" means any objects, wares, goods, commodities, or any other tangible items offered, directly or indirectly, to the public for sale.

b. "Proof of purchase" means a receipt, bill, credit card slip, or any other form of evidence which constitutes reasonable proof of purchase.

c. "Retail mercantile establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

L. 1982, c. 29, s. 2

56:8-2.16. Posting of signs; locations

Every retail mercantile establishment shall conspicuously post its refund policy as to all merchandise on a sign in at least one of the following locations:

a. Attached to the item itself, or

b. Affixed to each cash register or point of sale, or

c. So situated as to be clearly visible to the buyer from the cash register, or

d. Posted at each store entrance used by the public.

L. 1982, c. 29, s. 3.

56:8-2.17. Signs; contents

Any sign required by section 3 of this act to be posted in retail mercantile establishments shall state whether or not it is a policy of such establishment to give refunds and, if so, under what conditions, including, but not limited to, whether a refund will be given:

a. On merchandise which has been advertised as "sale" merchandise or marked "as is";

b. On merchandise for which no proof of purchase exists;

c. At any time or not beyond a point in time specified; or

d. In cash, or as credit or store credit only.

L. 1982, c. 29, s. 4.

56:8-2.18. Penalties; refunds or credits to buyers

A retail mercantile establishment violating any provision of this act shall be liable to the buyer, for up to 20 days from the date of purchase, for a cash refund or a credit, at the buyer's option, provided that the merchandise has not been used or damaged by the buyer.

L. 1982, c. 29, s. 5.

56:8-2.19. Posting of signs; exceptions

The provisions of section 3 shall not apply to retail mercantile establishments or departments that have a policy of providing, for a period of not less than 20 days after the date of purchase, a cash refund for a cash purchase or providing a cash refund or issuing a credit for a credit purchase, which credit is applied to the account on which the purchase was debited, in connection with the return of its unused and undamaged merchandise.

L. 1982, c. 29, s. 6.

56:8-2.20. Motor vehicle; perishables; custom merchandise; non-returnable merchandise; application of act

This act shall not apply to sales of motor vehicles, or perishables and incidentals to such perishables, or to custom ordered, custom finished merchandise, or merchandise not returnable by law.

L. 1982, c. 29, s.7.

56:8-2.21. Jurisdiction; penalties; cash refund; credit; damages

a. An individual action for a violation of this act may be brought in a municipal court in whose jurisdiction the sale was made.

b. In addition to the penalties provided for in section 5, a retail mercantile establishment that fails to comply with the requirements of this act and, in practice, does not have a policy as provided in section 6 and has refused to accept the return of the merchandise shall be liable to the consumer for:

(1) A cash refund or a credit, at the buyer's option, provided the merchandise has not been used or damaged, and

(2) Damages of not more than $200.00.

L. 1982, c. 29, s. 8.

56:8-2.22. Copy of transaction or contract; provision to consumer

It shall be an unlawful practice for a person in connection with a sale of merchandise to require or request the consumer to sign any document as evidence or acknowledgment of the sales transaction, of the existence of the sales contract, or of the discharge by the person of any obligation to the consumer specified in or arising out of the transaction or contract, unless he shall at the same time provide the consumer with a full and accurate copy of the document so presented for signature but this section shall not be applicable to orders placed through the mail by the consumer for merchandise.

L. 1982, c. 98, s. 1.

56:8-2.23. Disclosure of profit-making nature

It shall be an unlawful practice for any person, other than a charitable or nonprofit organization, engaged in the business of selling used goods, wares or merchandise for profit to solicit, by telephone, by the placement of collection boxes or otherwise, donations of used goods, wares or merchandise for resale for profit, without first disclosing to the person solicited the profit-making nature of the business, or if profits are to be shared with a charitable or nonprofit organization, the portion of profits which that organization will

receive. For the purposes of this act, "engaged in the business of selling used goods, wares or merchandise" means anyone who conducts sales more than five times a year.

L. 1985, c. 254, s. 1, eff. July 31, 1985.

56:8-2.25 Transaction of business under assumed name, misrepresented geographic origin, location.

a. It shall be an unlawful practice for any person conducting or transacting business under an assumed name and filing a certificate pursuant to R.S.56:1-2 to intentionally misrepresent that person's geographic origin or location or the geographic origin or location of any merchandise.

b. A person engaged in the business of advertising shall be immune from liability under this section for receiving, accepting or publishing any advertisement, irrespective of the medium or format, submitted or developed for any person conducting or transacting business under an assumed name.

L. 1997, c. 346, s. 1.

56:8-2.26 Charging of discriminatory, unusual rates for towing, storage.

5. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for any person to charge rates which are discriminatory or are not usual, customary and reasonable rates for the towing and storage of motor vehicles as provided in section 3 of P.L.1997, c.387 (C.40:48-2.54).

L. 1997, c. 387, s. 5.

56:8-2.27 Sale of baby food, non-prescription drugs, cosmetics, certain; unlawful.

It shall be an unlawful practice for any person to sell or offer to sell to the public:

a. any non-prescription drug, infant formula or baby food, which is subject to expiration dating requirements issued by the federal Food and Drug Administration, if the date of expiration has passed; and

b. any infant formula or baby food which is subject to expiration dating requirements issued by the federal Food and Drug Administration, any non-prescription drug, or any cosmetic as defined in subsection h. of R.S.24:1-1, unless that person presents, within five days of the request, a written record of the purchase of that product, which record or invoice shall specifically identify the product being sold by the product name, quantity purchased, that quantity being denoted by item, box, crate, pallet or otherwise, and date of purchase and shall contain the complete name or business name, address and phone number of the person from whom that product was purchased. The provisions of this subsection shall not apply to a transaction involving less than $50 of product between persons selling that product in the same general market area on the same day.

L. 1998, c. 5, s. 1.

Raincheck Policy Disclosure Act

56:8-2.28 Short title.

This act shall be known and may be cited as the "Raincheck Policy Disclosure Act."

L. 2006, c. 59, s. 1.

56:8-2.29 Definitions relative to raincheck policy disclosure.

2. As used in this act:

"Advertised" means any attempt, other than by use of a price tag, catalogue or any offering for sale of a motor vehicle, to directly or indirectly induce the purchase or rental of merchandise at retail, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or in any radio or television broadcast.

"Merchandise" means any objects, wares, merchandise, commodities, services or anything offered directly or indirectly to the public for sale or rental at retail.

"Raincheck" means a written statement issued by a retail mercantile establishment allowing the purchase of designated merchandise at a previously advertised price.

"Retail mercantile establishment" means any place of business where merchandise is exposed or offered for sale at retail to members of the consuming public.

L. 2006, c. 59, s. 2

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56:8-2.30 Posting of raincheck policy by retail mercantile establishment.

3. Every retail mercantile establishment which issues rainchecks to consumers for the sale of advertised merchandise that is not available throughout the advertised period shall conspicuously post its raincheck policy on a sign in at least one of the following locations:

a. Affixed to cash register or location of the point of sale;

b. So situated as to be clearly visible to the buyer;

c. Posted at each store entrance used by the public;

d. At the location where the merchandise was offered for sale;

e. In an advertisement for merchandise; or

f Printed on the receipt of sale

L. 2006, c. 59, s. 3

56:8-2.31 Unlawful practices by retail mercantile establishment relative to rainchecks.

4. It shall be an unlawful practice for any retail mercantile establishment which provides a raincheck for any advertised merchandise that is not available for immediate purchase to fail to:

a. Honor or satisfy that raincheck within 60 days of issuance, unless an extension of such time period is agreed to by the holder of the raincheck, provided that if after a good faith effort a retail mercantile establishment cannot procure for the holder of the raincheck the advertised merchandise within the 60-day period, the retail mercantile establishment may offer the holder of the raincheck a different item of merchandise of substantially the same kind, quality and price of the original advertised merchandise; and

b. For all merchandise with an advertised price greater than $15 per unit, give written or telephonic notice to the holder of the raincheck when the merchandise is available and inform the holder of the raincheck that the advertised merchandise will be held for a period of no less than 10 days from the date of notification or to the end of the 60-day period for which the raincheck is valid, whichever is longer; and

c. Offer a raincheck to all customers who are unable, due to the unavailability of the merchandise, to purchase the advertised merchandise during the period of time that the merchandise has been advertised as available for sale.

L. 2006, c. 59, s. 4.

56:8-2.32 Regulations.

5. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the provisions of this act.

L. 2006, c. 59, s. 5.

Attorney general powers

56:8-3. Investigation by attorney general; powers and duties

When it shall appear to the Attorney General that a person has engaged in, is engaging in, or is about to engage in any practice declared to be unlawful by this act, or when he believes it to be in the public interest that an investigation should be made to ascertain whether a person in fact has engaged in, is engaging in or is about to engage in, any such practice, he may:

(a) Require such person to file on such forms as are prescribed a statement or report in writing under oath or otherwise, as to all the facts and circumstances

concerning the sale or advertisement of merchandise by such person, and such other data and information as he may deem necessary;

(b) Examine under oath any person in connection with the sale or advertisement of any merchandise;

(c) Examine any merchandise or sample thereof, record, book, document, account or paper as he may deem necessary; and

(d) Pursuant to an order of the Superior Court impound any record, book, document, account, paper, or sample of merchandise that is produced in accordance with this act, and retain the same in his possession until the completion of all proceedings in connection with which the same are produced.

L. 1960, c. 39, p.138, s. 3.

56:8-3.1. Violations; penalty

Upon receiving evidence of any violation of the provisions of chapter 39 of the laws of 1960, the Attorney General, or his designee, is empowered to hold hearings upon said violation and upon finding the violation to have been committed, to assess a penalty against the person alleged to have committed such violation in such amount within the limits of chapter 39 of the laws of 1966 as the Attorney General deems proper under the circumstances. Any such amounts collected by the Attorney General shall be paid forthwith into the State Treasury for the general purposes of the State.

L. 1967, c. 97, s. 1, eff. June 8, 1967. Amended by L. 1971, c. 247, s. 11, eff. June 29, 1971.

56:8-4. Additional powers

To accomplish the objectives and to carry out the duties prescribed by this act, the Attorney General, in addition to other powers conferred upon him by this act, may issue subpoenas to any person, administer an oath or affirmation to any person, conduct hearings in aid of any investigation or inquiry, promulgate such rules and regulations, and prescribe such forms as may be necessary, which shall have the force of law.

L. 1960, c. 39, p. 139, s. 4

56:8-5. Service of notice by attorney general

Service by the Attorney General of any notice requiring a person to file a statement or report, or of a subpoena upon any person, shall be made personally within this State, but if such cannot be obtained, substituted service therefor may be made in the following manner:

(a) Personal service thereof without this State; or

(b) The mailing thereof by registered mail to the last known place of business,

residence or abode, within or without this State of such person for whom the same is intended; or

(c) As to any person other than a natural person, in accordance with the Rules Governing the Courts of the State of New Jersey pertaining to service of process, provided, however, that service shall be made by the Attorney General; or

(d) Such service as the Superior Court may direct in lieu of personal service within this State.

L. 1960, c. 39, p. 139, s. 5.

56:8-6. Failure or refusal to file statement or report or obey subpoena issued by attorney general; punishment

If any person shall fail or refuse to file any statement or report, or obey any subpoena issued by the Attorney General, the Attorney General may apply to the Superior Court and obtain an order:

(a) Adjudging such person in contempt of court;

(b) Granting injunctive relief without notice restraining the sale or advertisement of any merchandise by such persons;

(c) Vacating, annulling, or suspending the corporate charter of a corporation created by or under the laws of this State or revoking or suspending the certificate of authority to do business in this State of a foreign corporation or revoking or suspending any other licenses, permits or certificates issued pursuant to law to such person which are used to further the allegedly unlawful practice; and

(d) Granting such other relief as may be required; until the person files the statement or report, or obeys the subpoena.

L. 1960, c. 39, p. 139, s. 6.

56:8-7. Self-incrimination; exemption from prosecution or punishment

If any person shall refuse to testify or produce any book, paper or other document in any proceeding under this act for the reason that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him, convict him of a crime, or subject him to a penalty or forfeiture, and shall, notwithstanding, be directed to testify or to produce such book, paper or document, he shall comply with such direction.

A person who is entitled by law to, and does assert such privilege, and who complies with such direction shall not thereafter be prosecuted or subjected to any penalty or forfeiture in any criminal proceeding which arises out of and relates to the subject matter of the proceeding. No person so testifying shall be exempt from prosecution or punishment for perjury or false swearing committed by him in giving such testimony.

L. 1960, c. 39, p. 140, s. 7.

56:8-8. Injunction against unlawful practices; appointment of receiver; additional penalties

Whenever it shall appear to the Attorney General that a person has engaged in, is engaging in or is about to engage in any practice declared to be unlawful by this act he may seek and obtain in a summary action in the Superior Court an injunction prohibiting such person from continuing such practices or engaging therein or doing any acts in furtherance thereof or an order appointing a receiver, or both. In addition to any other remedy authorized herein the court may enjoin an individual from managing or owning any business organization within this State, and from serving as an officer, director, trustee, member of any executive board or similar governing body, principal, manager, stockholder owning 10% or more of the aggregate outstanding capital stock of all classes of any corporation doing business in this State, vacate or annul the charter of a corporation created by or under the laws of this State, revoke the certificate of authority to do business in this State of a foreign corporation, and revoke any other licenses, permits or certificates issued pursuant to law to such person whenever such management, ownership, activity, charter authority license, permit or certificate have been or may be used to further such unlawful practice. The court may make such orders or judgments as may be necessary to prevent the use or employment by a person of any prohibited practices, or which may be necessary to restore to any person in interest any moneys or property, real or personal which may have been acquired by means of any practice herein declared to be unlawful.

L. 1960, c. 39, p. 140, s.8. Amended by L. 1971, c. 247, s. 2, eff. June 29, 1971.

56:8-9. Powers and duties of receiver

When a receiver is appointed by the court pursuant to this act, he shall have the power to sue for, collect, receive and take into his possession all the goods and chattels, rights and credits, moneys and effects, lands and tenements, books, records, documents, papers, choses in action, bills, notes and property of every description, derived by means of any practice declared to be illegal and prohibited by this act, including property with which such property has been mingled, if it cannot be identified in kind because of such commingling, and to sell, convey, and assign the same and hold and dispose of the proceeds thereof under the direction of the court. Any person who has suffered damages as a result of the use or employment of any unlawful practices and submits proof to the satisfaction of the court that he has in fact been damaged, may participate with general creditors in the distribution of the assets to the extent he has sustained out-of-pocket losses. In the case of a corporation, partnership or business entity the receiver shall settle the estate and distribute the assets under the direction of the court, and he shall have all the powers and duties conferred upon receivers by the provisions of Title 14, Corporations, General, so far as the provisions thereof are

applicable. The court shall have jurisdiction of all questions arising in such proceedings and may make such orders and judgments therein as may be required.

L. 1960, c. 39, p. 141, s. 9.

56:8-10. Claims against persons acquiring money or property by unlawful practices

Subject to an order of the court terminating the business affairs of any person after receivership proceedings held pursuant to this act, the provisions of this act shall not bar any claim against any person who has acquired any moneys or property, real or personal, by means of any practice herein declared to be unlawful.

L. 1960, c. 39, p. 142, s. 10

56:8-11. Costs in actions or proceedings brought by attorney general

In any action or proceeding brought under the provisions of this act, the Attorney General shall be entitled to recover costs for the use of this State.

L. 1960, c. 39, p. 142, s. 11

56:8-12. Partial invalidity

If any provision of this law or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the law which can be given effect without the invalid provision or application, and to this end the provisions of this law are severable.

L. 1960, c. 39, p. 142, s. 12

Penalty for violation of Consumer Fraud Act

56:8-13 Penalties.

1. Any person who violates any of the provisions of the act to which this act is a supplement shall, in addition to any other penalty provided by law, be liable to a penalty of not more than $10,000 for the first offense and not more than $20,000 for the second and each subsequent offense. The penalty shall be exclusive of and in addition to any moneys or property ordered to be paid or restored to any person in interest pursuant to section 2 of P.L.1966, c.39 (C.56:8-14) or section 3 of P.L.1971, c.247 (C.56:8-15).

L. 1966, c.39, s. 1; amended 1971, c. 247, s. 9; 1991, c.332; 1999, c. 298, s. 3; 2001, c. 394, s. 10.

56:8-14 Enforcement of penalty; process.

2. The Superior Court and every municipal court shall have jurisdiction of proceedings for the collection and enforcement of a penalty imposed because of the violation, within the territorial jurisdiction of the court, of any provision of the act to which this act is a supplement. Except as otherwise provided in this act the penalty shall be collected and enforced in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 et seq.). Process shall be either in the nature of a summons or warrant and shall issue in the name of the State, upon the complaint of the Attorney General or any other person.

In any action brought pursuant to this section to enforce any order of the Attorney General or his designee the court may, without regard to jurisdictional limitations, restore to any person in interest any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under this act, except that the court shall restore to any senior citizen twice the amount or value, as the case may be, of any moneys or property, real or personal, which have been acquired by any means declared to be unlawful under P.L.1960, c.39 (C.56:8-1 et seq.).

In the event that any person found to have violated any provision of this act fails to pay a civil penalty assessed by the court, the court may issue, upon application by the Attorney General, a warrant for the arrest of such person for the purpose of bringing him before the court to satisfy the civil penalty imposed.

A person who fails to restore any moneys or property, real or personal, found to have been acquired unlawfully from a senior citizen shall be subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

L. 1966, c. 39, s. 2; amended 1971, c. 247, s. 10; 1991, c. 91, s. 526; 1999, c. 298, s. 4.

56:8-14.1. Office of consumer affairs entitled to penalties, fines or fees

In any action in a court of appropriate jurisdiction initiated by the director of any certified county or municipal office of consumer affairs, the office of consumer affairs shall be entitled, if successful in the action, to such penalties, fines or fees as may be authorized pursuant to chapter 8 of Title 56 of the Revised Statutes and awarded by the court, and to the reasonable costs of any such action, including investigative and legal costs, as may be filed with and approved by the court. Such costs shall be in addition to the taxed costs authorized in successful proceedings under the Rules Governing the Courts of the State of New Jersey.

As used in this section, "court of appropriate jurisdiction" includes a municipal court in the municipality where the offense was committed or where the defendant may be found. However, the term shall not include a municipal court in a city of the first class if the Chief Justice of the Supreme Court approves a recommendation submitted by the assignment judge of the vicinage in which the court is located to exempt that court from such jurisdiction.

All moneys collected pursuant to this section shall be paid to the officer lawfully charged with the custody of the general funds of the county or municipality.

L. 1981, c. 178, s. 1; amended 1991, c. 149, s. 1.

Education Fund

56:8-14.2. Definitions relative to certain deceptive consumer practices

1. As used in this act:

"Fund" means the Consumer Fraud Education Fund created pursuant to section 5 of this act.

"Pecuniary injury" shall include, but not be limited to: loss or encumbrance of a primary residence, principal employment, or source of income; loss of property set aside for retirement or for personal or family care and maintenance; loss of payments received under a pension or retirement plan or a government benefits program; or assets essential to the health or welfare of the senior citizen or person with a disability.

"Person with a disability" means a natural person who has a physical disability, infirmity, malformation or disfigurement which is caused by bodily injury, birth defect or illness including epilepsy, and which shall include, but not be limited to, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, deafness or hearing impediment, muteness or speech impediment or physical reliance on a service or guide animal, wheelchair, or other remedial appliance or device, or from any mental, psychological or developmental disability resulting from anatomical, psychological, physiological or neurological conditions which prevents the normal exercise of any bodily or mental functions or is demonstrable, medically or psychologically, by accepted clinical or laboratory diagnostic techniques.

"Senior citizen" means a natural person 60 years of age or older.

L. 1999, c. 129, s.1; amended 2001, c. 339.

56:8-14.3. Additional penalties for violation of C.56:8-1 et seq.

2. a. In addition to any other penalty authorized by law, a person who violates the provisions of P.L.1960, c.39 (C.56:8-1 et seq.) shall be subject to additional penalties as follows:

(1) A penalty of not more than $10,000 if the violation caused the victim of the violation pecuniary injury and the person knew or should have known that the victim is a senior citizen or a person with a disability; or

(2) A penalty of not more than $30,000 if the violation was part of a scheme, plan, or course of conduct directed at senior citizens or persons with disabilities in connection with sales or advertisements.

The requirement of actual or constructive knowledge is applicable to the additional penalty provided under paragraph (1) of this subsection only, and is not required to prove a violation of any other provision of P.L. 1960, c. 39 (C.56:8-1 et seq.).

b. The civil penalties authorized and collected under subsection a. of this section shall be paid to the State Treasurer and credited to the Consumer Fraud Education Fund created pursuant to section 5 of P.L.1999, c.129 (C.56:8-14.6).

L. 1999, c. 129, s. 2.

56:8-14.4. Restoration of money, property given priority

3. Restoration of money or property ordered pursuant to section 2 of P.L.1966, c.39 (C.56:8-14) or section 3 of P.L.1971, c.247 (C.56:8-15) shall be given priority over imposition of the additional civil penalties authorized under section 2 of P.L.1999, c.129 (C.56:8-14.3).

L. 1999, c. 129, s. 3.

56:8-14.5. Educational program about consumer protection laws, rights

4. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the Director of the Division on Aging in the Department of Community Affairs, the directors of the New Jersey Association of Area Agencies on Aging and the New Jersey Association of County Offices for Disabled Persons, shall develop and implement an educational program to inform senior citizens and persons with disabilities about consumer protection laws and consumer rights, subject to funds made available pursuant to subsection b. of section 5 of P.L.1999, c.129 (C.56:8-14.6) or any other source. Functions of the program may include:

a. The preparation of educational materials regarding consumer protection laws and consumer rights that are of particular interest to senior citizens and persons with disabilities and distribution of those materials to the appropriate State and county agencies for dissemination to senior citizens, persons with disabilities and the public; and

b. The underwriting of educational seminars and other forms of educational projects for the benefit of senior citizens and persons with disabilities.

L. 1999, c. 129, s. 4.

56:8-14.6. Consumer Fraud Education Fund

5. a. There is established in the General Fund a special fund to be known as the Consumer Fraud Education Fund. The State Treasurer shall credit to the fund all moneys received by the State for penalties assessed pursuant to section 2 of P.L.1999, c.129 (C.56:814.3). The fund shall be continuing and nonlapsing. The fund shall be

administered by the State Treasurer, and any interest earned on moneys in the fund shall be credited to the fund.

b. The Division of Consumer Affairs may draw upon the fund to effectuate the purposes of section 4 of P.L.1999, c.129 (C.56:8-14.5) and to pay reasonable and necessary administrative expenses incurred in implementing the provisions of this act to the extent that moneys are available.

L. 1999, c. 129, s. 5.

56:8-14.7. Rules, regulations

6. The Director of the Division of Consumer Affairs shall, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations necessary to effectuate the provisions of this act.

L. 1999, c. 129, s. 6.

56:8-15 Additional penalties.

3. In addition to the assessment of civil penalties, the Attorney General or his designee may, after a hearing as provided in P.L.1967, c.97 (C.56:8-3.1) and upon a finding of an unlawful practice under this act and the act hereby amended and supplemented, order that any moneys or property, real or personal, which have been acquired by means of such unlawful practice be restored to any person in interest, except that if any moneys or property, real or personal, have been acquired by means of an unlawful practice perpetrated against a senior citizen, the amount of moneys or property, real or personal, ordered restored shall be twice the amount acquired.

L. 1971, c. 247, s. 3; amended 1999, c. 298, s. 5.

56:8-16. Remission of penalties

In assessing any penalty under this act and the act hereby amended and supplemented, the Attorney General or his designee may provide for the remission of all or any part of such penalty conditioned upon prompt compliance with the requirements thereof and any order entered thereunder.

L. 1971, c. 247, s. 4, eff. June 29, 1971.

56:8-17 Noncompliance; penalties.

5. Upon the failure of any person to comply within 10 days after service of any order of the Attorney General or his designee directing payment of penalties or restoration of moneys or property, the Attorney General may issue a certificate to the Clerk of the Superior Court that such person is indebted to the State for the payment of such penalty and the moneys or property ordered restored. A copy of such certificate shall be served upon the person against whom the order was entered. Thereupon the clerk shall immediately enter upon his record of docketed judgments the name of the person so indebted, and of the State, a designation of the statute under which the penalty is imposed,

the amount of the penalty imposed and the amount of moneys ordered restored, a listing of property ordered restored, and the date of the certification. Such entry shall have the same force and effect as the entry of a docketed judgment in the Superior Court. Such entry, however, shall be without prejudice to the right of appeal to the Appellate Division of the Superior Court from the final order of the Attorney General or his designee.

A person who fails to restore moneys or property found to have been acquired unlawfully from a senior citizen shall be subject to punishment for criminal contempt pursuant to N.J.S.2C:29-9, which is a crime of the fourth degree.

L. 1971, c. 247, s. 3; amended 1999, c. 298, s. 6.

56:8-18. Cease and desist order; violations; penalty

Where the Attorney General or his designee, after a hearing as provided in P.L.1967, c. 97, finds that an unlawful practice has been or may be committed, he may order the person committing such unlawful practice to cease and desist or refrain from committing said practice in the future. When it shall appear to the Attorney General that a person against whom a cease and desist order has been entered has violated said order, the Attorney General may initiate a summary proceeding in the Superior Court for the violation thereof. Any person found to have violated a cease and desist order shall pay to the State of New Jersey civil penalties in the amount of not more than $25,000.00 for each violation of said order. In the event that any person fails to pay a civil penalty assessed by the court for violation of a cease and desist order, the court assessing the unpaid penalty is authorized, upon application of the Attorney General, to grant any relief which may be obtained under any statute or court rule governing the collection and enforcement of penalties.

L. 1971, c. 247, s. 6, eff. June 29, 1971.

56:8-19 Action, counterclaim by injured person; recovery of damages, costs.

7. Any person who suffers any ascertainable loss of moneys or property, real or personal, as a result of the use or employment by another person of any method, act, or practice declared unlawful under this act or the act hereby amended and supplemented may bring an action or assert a counterclaim therefor in any court of competent jurisdiction. In any action under this section the court shall, in addition to any other appropriate legal or equitable relief, award threefold the damages sustained by any person in interest. In all actions under this section, including those brought by the Attorney General, the court shall also award reasonable attorneys' fees, filing fees and reasonable costs of suit.

L. 1971, c. 247, s. 7; amended 1997, c. 359

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56:8-19.1 Exemption from consumer fraud law, certain real estate licensees, circumstances.

1. Notwithstanding any provision of P.L.1960, c.39 (C.56:8-1 et seq.) to the contrary, there shall be no right of recovery of punitive damages, attorney fees, or both, under section 7 of P.L.1971, c.247 (C.56:8-19), against a real estate broker, broker-salesperson or salesperson licensed under R.S.45:15-1 et seq. for the communication of any false, misleading or deceptive information provided to the real estate broker, broker-salesperson or salesperson, by or on behalf of the seller of real estate located in New Jersey, if the real estate broker, broker-salesperson or salesperson demonstrates that he:

a. Had no actual knowledge of the false, misleading or deceptive character of the information; and

b. Made a reasonable and diligent inquiry to ascertain whether the information is of a false, misleading or deceptive character. For purposes of this section, communications by a real estate broker, broker-salesperson or salesperson which shall be deemed to satisfy the requirements of a "reasonable and diligent inquiry" include, but shall not be limited to, communications which disclose information:

(1) provided in a report or upon a representation by a person, licensed or certified by the State of New Jersey, including, but not limited to, an appraiser, home inspector, plumber or electrical contractor, or an unlicensed home inspector until December 30, 2005, of a particular physical condition pertaining to the real estate derived from inspection of the real estate by that person;

(2) provided in a report or upon a representation by any governmental official or employee, if the particular information of a physical condition is likely to be within the knowledge of that governmental official or employee; or

(3) that the real estate broker, broker-salesperson or salesperson obtained from the seller in a property condition disclosure statement, which form shall comply with regulations promulgated by the director in consultation with the New Jersey Real Estate Commission, provided that the real estate broker, broker-salesperson or salesperson informed the buyer that the seller is the source of the information and that, prior to making that communication to the buyer, the real estate broker, broker-salesperson or salesperson visually inspected the property with reasonable diligence to ascertain the accuracy of the information disclosed by the seller.

Nothing in this section shall be interpreted to affect the obligations of a real estate broker, broker-salesperson or salesperson pursuant to the "New Residential Construction Off-Site Conditions Disclosure Act," P.L.1995, c.253 (C.46:3C-1 et seq.), or any other law or regulation.

L. 1999, c. 76, s. 1; amended 2004, c. 18, s. 2

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56:8-20. Notice to attorney general of action or defense by injured person; intervention

Any party to an action asserting a claim, counterclaim or defense based upon violation of this act or the act hereby amended or supplemented shall mail a copy of the initial or responsive pleading containing the claim, counterclaim or defense to the Attorney General within 10 days after the filing of such pleading with the court. Upon application to the court wherein the matter is pending, the Attorney General shall be permitted to intervene or to appear in any status appropriate to the matter.

L. 1971, c. 247, s. 8, eff. June 29, 1971.

Unit Price Disclosure Act

56:8-21. Short title

This act shall be known and may be cited as the "Unit Price Disclosure Act"

L. 1975, c. 242 s. 1.

56:8-22. Definitions

As used in this act: "Consumer commodity" means any merchandise, wares, article, product, comestible or commodity of any kind or class produced, distributed or offered for retail sale for consumption by individuals other than at the retail establishment, or for use by individuals for purposes of personal care or in the performance of services rendered within the household, and which is consumed or expended in the course of such use.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Price per measure" means the retail price of a consumer commodity expressed per such unit of weight, standard measure or standard count as the director shall designate by regulation.

"Person" means any natural person, partnership, corporation or other organization engaged in the sale, display or offering for sale of consumer commodities at retail from one or more retail establishments whose combined total floor area exceeds 4,000 square feet or whose combined total annual gross receipts from the sale of consumer commodities in the preceding year exceed $2 million.

L. 1975, c. 242 s. 2.

56:8-23. Exposure or offer for sale at retail of consumer commodity; mark of price per measure

It shall be an unlawful practice for any person to expose or offer for sale at retail any consumer commodities, except as specifically exempted by the director in accordance with section 4 of this act, unless said consumer commodities shall be

plainly marked by a stamp, tag, label or sign at the point of display with the price per measure of such consumer commodity.

L. 1975, c. 242 s. 3.

56:8-24. Unit pricing regulations; hearings; exemptions; retail establishments and commodities list

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may by regulation, and in each instance after public hearing, provide for the manner in which price per measure shall be calculated and displayed, establish and modify a list of commodities exempt from the provisions of this act, and define the classes of retail establishment exempted from the requirements of this act; provided that in no case shall persons with annual gross receipts from the sale of consumer commodities in the preceding tax year of more than $2 million from all retail establishments with a total floor area of more than 4,000 square feet each be exempt from the provisions of this act, and provided further that the director, in promulgating unit-pricing regulations, shall not exempt consumer commodities or retail establishments from the provisions of this act except where compliance therewith would be impractical, unreasonably burdensome or unnecessary for adequate protection of consumers. The Director of the Division of Consumer Affairs shall maintain at all times and make public a clearly defined list of specific commodities exempt from the provisions of this act and of all classes of retail commodities and all classes of retail establishments required to be in compliance with this act and any regulations issued hereunder.

L. 1975, c. 242 s. 4.

56:8-25. Other regulations

The director, pursuant to the provisions of the Administrative Procedures Act, P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate such other regulations as shall be necessary in his discretion to effectuate the purposes of this act.

L. 1975, c. 242 s. 5.

Ticket broker

56:8-26 Definitions.

1. As used in this act:

a. "Director" means the director of the Division of Consumer Affairs in the Department of Law and Public Safety.

b. "Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

c. "Person" means corporations, companies, associations, societies, firms,

partnerships and joint stock companies as well as individuals.

d. "Place of entertainment" means any privately or publicly owned and operated entertainment facility within this State, such as a theater, stadium, museum, arena, racetrack or other place where performances, concerts, exhibits, games or contests are held and for which an entry fee is charged.

e. "Ticket" means any piece of paper which indicates that the bearer has paid for entry or other evidence which permits entry to a place of entertainment.

f. "Ticket broker" means any person situated in and operating in this State who is involved in the business of reselling tickets of admission to places of entertainment and who charges a premium in excess of the price, plus taxes, printed on the tickets.

g. "Resale" means a sale by a person other than the owner or operator of a place of entertainment or of the entertainment event or an agent of any such person.

h. "Resell" means to offer for resale or to consummate a resale.

i. "Digger" means a person temporarily hired for the purpose of securing tickets by intimidating a purchaser waiting in line to procure event tickets.

L. 1983, c. 135, s. 1; amended 1983, c. 220, s. 1; 2001, c. 394, s.1.

56:8-27 Requirements for ticket broker.

2. No ticket broker shall engage in or continue in the business of reselling tickets for admission to a place of entertainment without meeting the following requirements:

a. Owning, operating or maintaining a permanent office, branch office, bureau, agency, or other place of business, not including a post office box, for the purpose of reselling tickets;

b. Obtaining a certificate of registration to resell or engage in the business of reselling tickets from the director;

c. Listing the ticket broker's registration number in any form of advertisement or solicitation in which tickets are being sold for the purpose of purchase by the general public for events in this State;

d. Maintaining records of ticket sales, deposits and refunds for a period of not less than two years from the time of any of these transactions;

e. Disclosing to the purchaser, by means of verbal description or a map, the location of the seats represented by the tickets;

f. Disclosing to the purchaser the cancellation policy of that broker;

g. Disclosing that a service charge is added by the ticket broker to the stated price on the tickets and is included by the broker in any advertisement or promotion for an event;

h. Disclosing to the purchaser, whenever applicable, that the ticket broker has a guarantee policy. If a ticket broker guarantees delivery of tickets to a purchaser and fails to deliver the tickets, the ticket broker shall provide a full refund for the cost of the tickets;

i Disclosing to the purchaser of tickets when he is utilizing a tentative order policy, popularly known as a "try and get." When a ticket broker fails to obtain tickets on a "try and get" basis, the broker shall refund any deposit made by a purchaser of those tickets within a reasonable time, as shall be determined by the director;

j. When guaranteeing tickets in conjunction with providing a tour package, a ticket broker who fails to provide a purchaser with those tickets shall refund fully the price of the tour package and tickets; and

k. Providing to a purchaser of tickets who cancels an order a full refund for the cost of the tickets less shipping charges, if those tickets are returned to the broker within three days after receipt; provided, that when tickets are purchased within seven days of an event, a refund shall be given only if the tickets are returned within one day of receipt; and further provided, that no refund shall be given on any tickets purchased within six days of an event unless the ticket broker is able to resell the tickets.

L. 1983, c. 135, s. 2; amended 1983, c. 220, s. 2; 2001, c. 394, s.2.

56:8-28 Application for registration, fee.

3. a. The division shall prepare and furnish to applicants for registration application forms and requirements prescribed by the director pertaining to the applications for and the issuance of certificates of registration to ticket brokers.

b. Every applicant for a certificate of registration to engage in the business of reselling tickets as a ticket broker shall file a written application with the division on the form furnished by, and consistent with, the regulations prescribed by the director.

c Each application shall be accompanied by a fee which shall be determined by the director and shall not exceed $500, and a description of the location where the applicant proposes to conduct his business.

L. 1983, c. 135, s. 3; amended 2001, c. 394, s.3.

56:8-29 Issuance of certificate of registration.

4. a. Within 120 days after receipt of the completed application, fee and bond, if any, and when the director is satisfied that the applicant has complied with all of the requirements of this act, the director shall grant and issue a certificate of registration to

the applicant.

b. The certificate of registration granted may be renewed for a period of two years upon the payment of a renewal fee which shall be determined by the director and shall not exceed $500.

c. No certificate of registration shall be transferred or assigned without the approval of the director. Any request for a change in the location of the premises operated by any registrant situated in and operating in this State shall be submitted to the director in writing no less than 30 days prior to that relocation. The certificate of registration shall run to January 1 in the second year next ensuing the date thereof unless sooner revoked by the director.

L. 1983, c. 135, s. 4; amended 2001, c. 394, s.4.

56:8-30 Bond required to engage in business of reselling tickets as a ticket broker.

5. The director shall require the applicant for a certificate of registration to engage in the business of reselling tickets as a ticket broker to file with the application a bond in the amount of $10,000.00 with two or more sufficient sureties or an authorized surety company, which bond shall be approved by the director.

Each bond shall be conditioned on the promise that the applicant, his agents or employees will not be guilty of fraud or extortion, will not violate any of the provisions of this act, will comply with the rules and regulations promulgated by the director, and will pay all damages occasioned to any person by reason of misstatement, misrepresentation, fraud or deceit or any unlawful act or omission in connection with the provisions of this act and the business conducted under this act.

L. 1983, c. 135, s. 5; amended 2001, c. 394, s.5.

56:8-31. Revocation or suspension of license

The director, after notice to the licensee and reasonable opportunity for the licensee to be heard, may revoke his license or may suspend his license for any period which the director deems proper, upon satisfactory proof that the licensee has violated this act, any condition of his license or any rule or regulation of the division promulgated pursuant to this act.

L. 1983, c. 135, s. 6

56:8-32. Display of license; copies

Immediately upon the receipt of the license issued pursuant to this act, the licensee shall display and maintain his license in a conspicuous place in his principal office for reselling tickets. He shall request copies of the license from the director for the purpose of displaying a copy of the license in each branch office, bureau or agency and the director may charge a fee for the copies.

L. 1983, c. 135, s. 7.

56:8-33 Price charged printed on ticket, maximum premium for reseller.

8. a. Each place of entertainment shall print on the face of each ticket and include in any advertising for any event the price charged therefor. Tickets printed prior to the enactment of P.L.2001, c.394 (C.56:8-35.1 et al.) shall have endorsed thereon the maximum premium not to exceed 20% of the ticket price or $3.00, whichever is greater, plus lawful taxes, at which the ticket may be resold. Tickets printed on or after the effective date of P.L.2001, c.394 (C.56:8-35.1 et al.) shall have endorsed thereon the maximum premium not to exceed 20% of the ticket price or $3.00, whichever is greater, plus lawful taxes, at which the ticket may be resold, except for tickets resold by registered ticket brokers or season ticket holders.

b. No person other than a registered ticket broker or season ticket holder shall resell or purchase with the intent to resell a ticket for admission to a place of entertainment at a maximum premium in excess of 20% of the ticket price or $3.00, whichever is greater, plus lawful taxes. No registered ticket broker or season ticket holder shall resell or purchase with the intent to resell a ticket for admission to a place of entertainment at a premium in excess of 50% of the price paid to acquire the ticket, plus lawful taxes.

L. 1983, c. 135, s. 8; amended 1983, c. 220, s. 3; 2001, c. 394, s.6.

56:8-34 Reselling tickets prohibited in certain area; exceptions.

9. a. No person shall resell or purchase with the intent to resell any ticket, in or on any street, highway, driveway, sidewalk, parking area, or common area owned by a place of entertainment in this State, or any other area adjacent to or in the vicinity of any place of entertainment in this State as determined by the director; except that a person may resell, in an area which may be designated by a place of entertainment in this State, any ticket or tickets originally purchased for his own personal or family use at no greater than the lawful price permitted under this act.

L. 1983, c. 135, s. 9; amended 1983, c. 220, s. 4; 2001, c. 394, s.7.

56:8-35. Special treatment in obtaining tickets; prohibition

Any person who gives or offers anything of value to an employee of a place of entertainment in exchange for, or as an inducement to, special treatment with respect to obtaining tickets, or any employee of a place of entertainment who receives or solicits anything of value in exchange for special treatment with respect to issuing tickets, shall be in violation of this act.

L. 1983, c. 135, s. 10; Amended by 1983, c. 220, s. 5.

56:8-35.1 Withholding tickets from sale, prohibited amount.

8. It shall be an unlawful practice for a person, who has access to tickets to an event prior to the tickets' release for sale to the general public, to withhold those tickets from sale

to the general public in an amount exceeding 5% of all available seating for the event.

L. 2001, c. 394, s. 8

56:8-35.2 Refunds prohibited under certain circumstances.

9. A purchaser of tickets who places a special order with a ticket broker for tickets that are not in stock or are obtained for a purchaser's specific need and are paid for in advance by the ticket broker, shall not be eligible to receive a refund for that purchase unless the ticket broker is able to find someone else to purchase the tickets and as long as the purchaser is notified in advance of this policy.

L. 2001, c. 394, s. 9.

56:8-35.3 Method for lawful sell back.

11. The director and places of entertainment shall create a method for season ticket holders and other ticket holders to lawfully sell back tickets to the venue for events they will not be able to attend.

L. 2001, c. 394, s. 11.

56:8-35.4 Use of digger unlawful.

12. It shall be an unlawful practice for a person to use a digger to acquire any ticket.

L. 2001, c. 394, s. 12.

56:8-36. Rules and regulations

The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c. 410 (C. 52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act.

L. 1983, c. 135, s. 11.

56:8-37. Violations; penalty

Any person who violates any provision of this act shall be guilty of a crime of the fourth degree.

L. 1983, c. 135, s. 12.

56:8-38. Nonprofit or political organizations; application of act

The provisions of this act shall not apply to any person who sells, raffles or otherwise disposes of the ticket for a bona fide nonprofit or political organization when the premium proceeds are devoted to the lawful purposes of the organization.

L. 1983, c. 135, s. 13.

Health Clubs

56:8-39. Definitions

As used in this act:

a. "Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

b. "Health club" means an establishment which devotes or will devote 40% or more of its square footage to providing services or facilities for the preservation, maintenance, encouragement or development of physical fitness or physical well-being. The term includes an establishment designated as "reducing salon," "health spa," "spa," "exercise gym," "health studio," "health club," or by other terms of similar import.

c. "Health club services" means those services offered by a health club for the preservation, maintenance, encouragement or development of physical fitness or physical well-being.

d. "Health club services contract" means an agreement under which the buyer of health club services purchases or becomes obligated to purchase health club services.

e. "Operating day" means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays.

L. 1987, c. 238, s. 1.

56:8-40. Registration

Each person who sells or offers for sale health club services in this State shall register with the director on forms the director provides. The registration shall be renewed every two years. Upon the sale of the health club facility or a change in the majority ownership of the stock of the corporate owner, the health club facility shall reregister with the director and shall pay the registration fee. The person shall provide the full name and address of each business location where health club services are sold in the State as well as any other information regarding the ownership and operation of each health club that the director deems appropriate. The registration and renewal fees shall be established or changed by the director and shall be fixed at a level to allow for the proper administration and enforcement of this act, but shall not be fixed at a level that will raise amounts in excess of the amount estimated to be so required.

L. 1987, c. 238, s. 2.

56:8-41. Security

a. A person who sells or offers for sale health club services shall, for each health

club facility operated in the State, maintain a bond issued by a surety authorized to transact business in this State or maintain an irrevocable letter of credit by a bank or maintain with the director securities, moneys or other security acceptable to the director to fulfill the requirements of this subsection. The principal sum of the bond, letter of credit, or securities, moneys or other security shall be 10% of the health club's gross income for health club services during the club's last fiscal year, except that the principal sum of the bond, letter of credit, or securities, moneys or other security shall not be less than $25,000.00, nor more than $50,000.00. However, the principal sum of the bond, letter of credit, or securities, moneys or other security shall be $50,000.00 for any period of time that a person sells or offers for sale health club services prior to the opening of the health club facility. After the health club facility opens, the bond, letter of credit, or securities, moneys or other security shall be adjusted to the appropriate sum. The bond, letter of credit, or securities, moneys or other security shall be filed or deposited with the director and shall be executed to the State of New Jersey for the use of any person who, after entering into a health club services contract, is damaged or suffers any loss by reason of breach of contract or bankruptcy by the seller. Any person claiming against the bond, letter of credit, or securities, moneys, or other security may maintain an action at law against the health club and the surety, bank or director, as the case may be. The aggregate liability of the surety, bank, or the director to all persons for all breaches of the conditions of the bond, letter of credit, or the securities, moneys or other security held by the director shall not exceed the amount of the bond, letter of credit, or the securities, moneys or other security held by the director.

In the case of a bond, the health club shall file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

b. The provisions of subsection a. of this section shall not be applicable to a person who sells or offers for sale health club services in which the buyer of the health club services purchases or becomes obligated to purchase health club services to be rendered over a period no longer than three months and in which the seller of the health club services requires or collects no more than three months' payment in advance. The person who sells or offers for sale health club services under contracts provided for in this subsection shall file with the director, within 30 days following the effective date of this act and no later than January 15 of every even-numbered year, a declaration, executed under penalty of perjury, stating he sells or offers for sale only health club services under contracts which comply with this subsection. Any person who has filed a declaration pursuant to this subsection and who intends to sell or offer for sale health club services under contracts with longer terms or greater payments in advance than those provided in this subsection shall comply with subsection a. of this section.

L. 1987, c. 238, s. 3.

56:8-42. Health club services contract

a. Every contract for health club services shall be in writing. A copy of the written contract shall be given to the buyer at the time the buyer signs the contract.

b. A health club services contract shall specifically set forth in a conspicuous manner on the first page of the contract the buyer's total payment obligation for health club services to be received pursuant to the contract.

c. A health club services contract of a health club facility which maintains a bond, irrevocable letter of credit or securities, moneys or other security pursuant to subsection a. of section 3 of this act shall set forth that a bond, irrevocable letter of credit or securities, moneys or other security is filed or deposited with the Director of the Division of Consumer Affairs to protect buyers of these contracts who are damaged or suffer any loss by reason of breach of contract or bankruptcy by the seller.

d. Services to be rendered to the buyer under the contract shall not obligate the buyer for more than three years from the date the contract is signed by the buyer.

e. A contract for new or increased health club services may be cancelled by the buyer for any reason at any time before midnight of the third operating day after the buyer receives a copy of the contract. In order to cancel a contract the buyer shall notify the health club of cancellation in writing, by registered or certified mail, return receipt requested, or personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the customer has executed any credit or loan agreement through the health club to pay all or part of health club services, the negotiable instrument executed by the buyer shall also be returned within 30 days. The contract shall contain a conspicuous notice printed in at least 10-point boldfaced type as follows:

"NOTICE TO CUSTOMER

You are entitled to a copy of this contract at the time you sign it.

You may cancel this contract at any time before midnight of the third operating day after receiving a copy of this contract. If you choose to cancel this contract, you must either:

1 Send a signed and dated written notice of cancellation by registered or certified mail, return receipt requested; or

2 Personally deliver a signed and dated written notice of cancellation to:

(Name of health club)

(Address of health club)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. If the third operating day falls on a Sunday or holiday, notice is timely given if it is mailed or delivered as specified in this notice on the next operating day. Refunds must be made within 30 days of receipt of the cancellation notice to the health

club.

'Operating day' means any calendar day on which patrons may inspect and use the health club's facilities and services during a period of at least eight hours, except holidays and Sundays."

f. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's death or permanent disability, if the permanent disability is fully described and confirmed to the health club by a physician. In a cancellation under this subsection, the health club may retain the portion of the total contract price representing the services used plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

g. A health club services contract shall provide that it is subject to cancellation by notice sent by registered or certified mail, return receipt requested, or personally delivered, to the address of the health club specified in the contract upon the buyer's change of permanent residence to a location more than 25 miles from the health club or an affiliated health club offering the same or similar services and facilities at no additional expense to the buyer. In a cancellation under this subsection, the health club may require proof of the new permanent residence and may retain a prorated share of the total contract price based upon the date the notice was received plus reimbursement for expenses incurred in an amount not to exceed 10% of the total contract price.

h. A health club services contract shall provide that if a health club facility is closed for a period longer than 30 days through no fault of the buyer of the health club services contract, the buyer is entitled to either extend the contract for a period equal to that during which the facility is closed or to receive a prorated refund of the amount paid by the buyer under the contract.

i. A health club services contract shall not obligate the buyer to renew the contract.

j. If a health club facility is not in existence on the date the contract is executed, the health club services contract shall provide that a buyer of a contract may cancel the contract if the facility is not open for business on a date which shall be set forth in the contract and receive a full refund of any deposit or payment on the contract.

L. 1987, c. 238, s. 4.

56:8-43. Right of action

a. A health club services contract shall not require the execution of any note or series of notes by the buyer which, if separately negotiated, will cut off as to third parties any right of action or defense which the buyer has against the health club.

b. A right of action or defense arising out of a health club services contract which the buyer has against the health club shall not be cut off by assignment of the contract

whether or not the assignee acquires the contract in good faith and for value.

L. 1987, c. 238, s. 5.

56:8-44. 25% limit

A health club may not charge and accept a down payment exceeding 25% of the total contract price prior to opening the health club facility.

L. 1987, c. 238, s. 6.

56:8-45. Contracts voidable

a. Any health club services contract entered into in reliance upon any fraudulent or substantially and willfully false or misleading information, representation, notice or advertisement of the health club is voidable at the option of the buyer of the contract. Any health club services contract which does not comply with the applicable provisions of this act is voidable at the option of the buyer of the contract.

b. Any waiver by the buyer of the provisions of this act is void.

L. 1987, c. 238, s. 7.

56:8-46. Violation

It is an unlawful practice and a violation of P.L. 1960, c. 39 (C. 56:8-1 et seq.) to violate the provisions of this act.

L. 1987, c. 238, s. 8.

56:8-47. Nonapplicability

The provisions of this act shall not apply to any nonprofit public or private school, college or university; the State or any of its political subdivisions; or any bona fide nonprofit, religious, ethnic, or community organization.

L. 1987, c. 238, s. 9.

56:8-48. Rules, regulations

The director shall adopt pursuant to the provisions of the "Administrative Procedure Act," P.L. 1968, c. 410 (C. 52:14B-1 et seq.), rules and regulations necessary to effectuate the purposes of this act.

L. 1987, c. 238, s. 10.

Toys

56:8-49. Definitions

1. As used in this act:

"Dealer" means a person who sells a toy or other article intended for use by children at retail. A dealer who sells at wholesale a toy or article subject to this act shall, with respect to that sale, be considered the distributor of that toy or article.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Distributor" means a person who sells a toy or other article intended for use by children at wholesale.

"Manufacturer" means a person who manufactures or imports a toy or other article intended for use by children for distribution in this State, except that when the toy or other article is distributed or sold under a name other than that of the actual manufacturer or the toy or other article, the term "manufacturer" includes any person under whose name the toy or other article is distributed or sold.

L. 1991, c. 295, s. 1.

56:8-50. Notice of defect or hazard in children's products to director

2. Any manufacturer, distributor or dealer who, pursuant to any law or any regulation of the U.S. Consumer Product Safety Commission, is required to give public notice with regard to a defect or hazard in any toy or other article intended for use by children of this State shall notify, at the same time and in like manner, the director. The requirements of this section also apply to any such notice that is given voluntarily.

L. 1991, c. 295, s. 2.

56:8-51. Dealer display of notification

3. A dealer who is notified by a manufacturer, a distributor or the U.S. Consumer Product Safety Commission of a defective or hazardous toy or other article intended for use by children shall prominently display that notification for at least 120 days after its receipt in each premises where the toy or article would normally be sold. The notification shall be displayed in an area readily accessible to the public and its content shall be easily readable by a person of normal vision.

L. 1991, c. 295, s. 3.

56:8-52. Inspection program; regulations

4. a. The director shall establish an inspection program to insure that dealers in toys and other articles intended for use by children comply with section 3 of this section. The director also shall periodically publish and disseminate to the public a summary of defective and hazardous toys and other articles intended for use by children.

b. The director shall adopt all regulations necessary to carry out the purposes of this act, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

L. 1991, c. 295, s. 4

56:8-53. Allocation of penalty monies

5. The monies collected as penalties for violations of this act shall be allocated to the Division of Consumer Affairs in the Department of Law and Public Safety.

L.1991, c.295, s.5

56:8-53.1 Definitions relative to child product safety

1. As used in this act:

“Child” means a person less than 14 years of age.

“Children’s product” means a product, including, but not limited to, a full size crib, non-full-size crib, toddler bed, bed, car seat, chair, high chair, booster chair, hook-on chair, bath seat, gate or other enclosure for confining a child, play yard, stationary activity center, carrier, stroller, walker, swing, or toy or play equipment, that meets the following criteria:

a. the product is designed or intended for the care, or use by, a child; or

b. the product is designed or intended to come into contact with a child while the product is used.

Notwithstanding any other provision of this section to the contrary, a product is not a “children’s product” for the purposes of this act if it may be used by o for the care of a child, but it is designed or intended for use by the general population or segments of the general population and not solely or primarily for use by or for the care of a child, or it is a balloon, medication, drug, or food or is intended to be ingested.

“Commercial user” means any person who deals in children’s products or who otherwise by one’s occupation holds oneself out as having knowledge or skill peculiar to children’s products, or any person who is in the business of remanufacturing, retrofitting, selling, leasing, subletting, or otherwise placing in the stream of commerce children’s products.

“Crib” means a bed or containment designed to accommodate an infant.

“Full-size crib” means a full-size crib as defined en Section 1508.1 and 1508.3 of title 16, Code of Federal Regulations regarding the requirements for full-size cribs.

“Non -full-size crib” means a non-full-size crib as defined en Section 1509.2 and of title 16, Code of Federal Regulations regarding the requirements for non-full-size cribs.

“Place in the stream of commerce” means to sell, offer for sale, give away, offer to give away, or allow the use of.

L.2007, c. 124, s.1.

58:8-53.2 Unlawful practices relative to children's products deemed unsafe.

2. a. It shall be unlawful practice for any commercial user to knowingly remanufacture, retrofit, sell, contract to sell or resell, lease, sublet, or otherwise place in the stream of commerce a children's product deemed unsafe in accordance with this section if it meets any of the following criteria:

b. A children's product is deemed to be unsafe for the purpose of this section if it meets any of the following criteria:

(1) it has been recalled for any reason by the federal agency or the product's manufacturer, distributor, or importer and the recall has not been rescinded; or

(2) a federal agency has issued a warning that a specific product's intended use constitutes a safety hazard and the warning has not been rescinded.

L.2007, c. 124, s. 2

56:8-53.3 Duties of Division of Consumer Affairs; immunity from liability

3. a. The Division of Consumer Affairs in the Department of Law and Public Safety shall:

(1) create, maintain, and update a comprehensive list of children's products that have been identified as meeting any of the criteria set forth in section 2 of P.L. 2007, c.124 (C.56:8-53.2); and

(2) make the comprehensive list available to the public at not cost, including, but not limited to, posting the list on the Internet.

b. The Division of Consumer Affairs should not be liable for any civil damages as a result of any acts or omissions undertaken in good faith in the creation, maintenance or updating of the list of children's products in accordance with subsection a. of this section.

L.2007, c. 124, s.3.

56:8-53.4 Retrofitting of children products

4. A children's product deemed unsafe in accordance with P.L. 2007, c. 124 (C.56:8-53.1 et al.) as a result of a recall or warning issued by a federal agency, may be retrofitted by the manufacturer if the retrofit has been approved by the federal agency issuing the recall or warning or another federal agency with the authority to approve the retrofit. A retrofitted children's product may be placed in the stream of commerce. A commercial user is responsible for maintaining a record of any notice provided by the manufacturer concerning a retrofitted children's product stating that the retrofit has been approved by the federal agency issuing the recall or warning or another federal agency with the authority to approve the retrofit.

L.2007, c. 124, s.4.

56:8-53.5 Rules, regulations.

6. a. Pursuant to the “Administrative Procedure Act”, P.L. 1968, c. 410 (C.52:14B-1 et seq.), the Director of the Division of Consumer Affairs in the Department of Law and Public Safety, may adopt rules and regulations to effectuate the purposes of this sections 1 through 4 of this act.

b. Pursuant to the “Administrative Procedure Act”, P.L. 1968, c.410 (C. 52:14B-1 et seq.), the Commissioner of Children and Families shall adopt rules and regulations to effectuate the purposes of section 5 of this bill.

L.2007, c. 124, s.6.

Information services

56:8-54. Application of consumer fraud act to information services

1. An information service constitutes a service within the term "merchandise" as defined in P.L.1960, c.39 (C.56:8-1 et seq.), and the provisions of that law concerning the advertisement and sale of merchandise shall have the same application to the advertisement and sale of an information service.

L.1991 c. 416, s.1

56:8-55. Definitions

2. For the purposes of this act:

"Automatic dialing device" means equipment capable of being programmed to randomly or sequentially dial seven-digit or ten-digit telephone numbers and, upon connection, play back a pre-recorded message.

"Information service" means live or pre-recorded voice or computer-generated communication initiated by use of a telephone number for a fee or charge billed by or on behalf of the information service provider in addition to any charges for the local or long distance transmission or other services associated with the call which are subject to federal regulation or to regulation by the Board of Public Utilities pursuant to Title 48 of the Revised Statutes, but shall not include any regulated announcement services, directory or operator services offered by telephone companies, or services offered on a presubscription basis.

"Information service provider" means a person who advertises or sells an information service.

L.1991 c. 416, s.2

56:8-56. Unlawful practice without disclosures required

3. a. It shall be an unlawful practice for a person to advertise or sell an information

service unless the following information is clearly and conspicuously disclosed in all advertisements offering the information service:

(1) An accurate description of the service;

(2) The total price of the service, or, where a charge is based in whole or in part on the passage of time; the rate, by minute or other unit of time upon which that charge is based; any other charges being imposed for the service; and the total cost of any information service of predetermined length;

(3) Instruction to minors to obtain parental consent before engaging the information service; and

(4) The legal name and street address of the information service provider.

b. In any case in which the total price of the information service may exceed $5, it shall be an unlawful practice for a person to advertise or sell the information service unless:

(1) The disclosures required by paragraphs (1) and (2) of subsection a. of this section and, in the case of an information service aimed at or likely to be of interest to minors, an additional instruction directing minors to hang up unless the minor has parental permission are clearly and prominently stated at the inception of the telephone call connecting the caller with the information service; and

(2) The caller is clearly notified of and afforded a reasonable opportunity to disconnect the call following the disclosure and prior to incurring any charge for the information service.

c. The preambles required for information services subject to the provisions of subsection b. of this section are intended to be consistent with the preambles required for interstate calls subject to the provisions of 56 Fed. Reg. 56165 (1991) (to be codified at 47 C.F.R. s.64.709). In the event that such regulations are amended or replaced by federal law or subsequent federal regulation, the Director of the Division of Consumer Affairs is authorized to promulgate regulations modifying the provisions of this section to avoid conflict with federal requirements.

L.1991 c. 416, s.3.

56:8-57. Unlawful practices

4. It shall be an unlawful practice for a person to advertise or sell an information service that involves:

a. Advertisement through use of an automatic dialing device;

b. Access to the information service through use of signals or tones provided directly or indirectly by the information service provider;

c. The dialing of more than one telephone number for a fee;

d. The participation in a contest, raffle, lottery or game of chance which is illegal under New Jersey law;

e. Job or employment opportunities in violation of licensing, registration or other requirements of New Jersey law;

f. Charitable solicitation where the charity and the information service provider are not registered as required by New Jersey law or are not otherwise in compliance with New Jersey law; or

g. Accessing an information service in order to claim or receive information or notice concerning entitlement to a prize, gift, award or other thing of value, other than in connection with a lottery, type of lottery, or lottery game offered by the New Jersey State Lottery Commission.

L.1991 c. 416, s.4

56:8-58. Blocking of telephone access

5. The Board of Public Utilities is directed to adopt rules and regulations providing a procedure whereby a subscriber, or the legal representative, guardian, or personal representative of a subscriber may request the telephone company to block access to an information service from the telephone of the subscriber. For purposes of this section, a personal representative is a person designated by the subscriber to serve as the subscriber's representative to the telephone company in the case of billing, emergencies and related matters.

L.1991 c. 416, s.5

56:8-59. Rules, regulations, fees

6. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division of Consumer Affairs may adopt regulations as authorized in section 3 of P.L.1991, c.416 (C.56:8-56) and as otherwise necessary to effectuate the purposes of this act, require information service providers to register with the Division of Consumer Affairs in the Department of Law and Public Safety and establish fees for this registration at a level which allows for the proper administration and enforcement of this act.

L.1991 c. 416, s.6

56:8-60. Injunctive relief, restraints on income

7. In addition to powers exercised by the Attorney General pursuant to the provisions of section 8 of P.L.1960, c.39 (C.56:8-8) or any other law, when it shall appear to the Attorney General that an information service provider is about to engage in, is continuing to

engage in, or has engaged in conduct which is in violation of this law, or when it is in the public interest, the Attorney General shall have the authority to seek and obtain in summary action in the Superior Court an injunction prohibiting the information service provider from advertising or selling information services, and may seek and obtain an order directing restraints against receipt and withdrawal of all money due or payable to the information service provider on account of the unlawful activity.

L.1991 c. 416, s.7

Kosher Food Consumer Protection Act

56:8-61. Short title

1. This act shall be known and may be cited as the "Kosher Food Consumer Protection Act."

L.1994 c. 138, s.1

56:8-62. Definitions

2. As used in this act:

"Dealer" means any establishment that advertises, represents or holds itself out as selling, preparing or maintaining food as kosher. This shall include, but not be limited to, manufacturers, slaughterhouses, wholesalers, stores, restaurants, hotels, catering facilities, butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores, nursing homes, freezer dealers and food plan companies. These establishments may also sell, prepare or maintain food not represented as kosher.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.

"Food" means a food, food product, food ingredient, dietary supplement or beverage.

L.1994 c. 138, s.2.

56:8-63. Posting of kosher information

3. a. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover, shall disclose the basis upon which that representation is made by posting the information required by the director, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4), on a sign of a type and size specified by the director in a conspicuous place upon the premises at which the food is sold or exposed for sale as required by the director.

b. It shall be an unlawful practice for any person to violate the requirements of subsection a. of this section.

L.1994 c. 138, s.3

56:8-64. Unlawful practice not committed; proof required

4. Any person subject to the requirements of section 3 of this act shall not be deemed to have committed an unlawful practice if it can be shown by a preponderance of the evidence that the person relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food represented to be kosher or kosher for Passover.

L.1994 c. 138, s.4

56:8-65. Presumptive evidence of intent to sell

5. Possession by a dealer of any food not in conformance with its disclosure is presumptive evidence that the person is in possession of that food with the intent to sell.

L.1994 c. 138, s.5

56:8-66. Compliance with requirements

6. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be kosher or kosher for Passover shall comply with all requirements of the director, including, but not limited to, recordkeeping, labeling and filing, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4).

L.1994 c. 138, s.6.

Used motor vehicle

56:8-67 Definitions relative to sale and warranty of certain used vehicles

1. As used in this act:

"As is" means a used motor vehicle sold by a dealer to a consumer without any warranty, either express or implied, and with the consumer being solely responsible for the cost of any repairs to that motor vehicle.

"Consumer" means the purchaser or prospective purchaser, other than for the purpose of resale, of a used motor vehicle normally used for personal, family or household purposes.

"Covered item" means and includes the following components of a used motor vehicle: Engine -all internal lubricated parts, timing chains, gears and cover, timing belt, pulleys and cover, oil pump and gears, water pump, valve covers, oil pan, manifolds, flywheel, harmonic balancer, engine mounts, seals and gaskets, and turbo-charger housing; however, housing, engine block and cylinder heads are covered items only if damaged by the failure of an internal lubricated part. Transmission Automatic/Transfer

Case -all internal lubricated parts, torque converter, vacuum modulator, transmission mounts, seals and gaskets. Transmission Manual/Transfer Case -all internal lubricated parts, transmission mounts, seals and gaskets, but excluding a manual clutch, pressure plate, throw-out bearings, clutch master or slave cylinders. Front-Wheel Drive -all internal lubricated parts, axle shafts, constant velocity joints, front hub bearings, seals and gaskets, Rear-Wheel Drive -all internal lubricated parts, propeller shafts, supports and U-joints, axle shafts and bearings, seals and gaskets.

"Dealer" means any person or business which sells or offers for sale a used motor vehicle after selling or offering for sale three or more used motor vehicles in the previous 12-month period.

"Deduction for personal use" means the mileage allowance set by the federal Internal Revenue Service for business usage of a motor vehicle in effect on the date a used motor vehicle is repurchased by a dealer in accordance with section 5 of this act, multiplied by the total number of miles a used motor vehicle is driven by a consumer from the date of purchase of that vehicle until the time of its repurchase.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Excessive wear and tear" means wear or damage to a used motor vehicle beyond that expected to be incurred in normal circumstances.

"Material defect" means a malfunction of a used motor vehicle, subject to a warranty, which substantially impairs its use, value or safety.

"Repair insurance" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specified mileage and provided at an extra charge beyond the price of the used motor vehicle.

"Service contract" means a contract in writing to refund, repair, replace, maintain or take other action with respect to a used motor vehicle for any period of time or any specific mileage or provided at an extra charge beyond the price of the used motor vehicle.

"Used motor vehicle" means a passenger motor vehicle, excluding motorcycles, motor homes and off-road vehicles, title to, or possession of which has been transferred from the person who first acquired it from the manufacturer or dealer, and so used as to become what is commonly known as "secondhand," within the ordinary meaning thereof but does not mean a passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days , which is sold by the lessor to the lessee, or to a family member or employee of the lessee upon the termination of the lease agreement.

"Warranty" means any undertaking, in writing and in connection with the sale by a

dealer of a used motor vehicle, to refund, repair, replace, maintain or take other action with respect to the used motor vehicle, and which is provided at no extra charge beyond the price of the used motor vehicle.

L. 1995, c. 373, s. 1; amended 1997, c. 22, s.1.

56:8-67.1 Sale of used passenger motor vehicle, upon termination of lease agreement

A lessor who is a dealer and who sells or offers for sale a used passenger motor vehicle, subject to a motor vehicle lease agreement which was in effect for more than 90 days, to a consumer who is not the lessee, or a family member or employee of the lessee upon the termination of the lease agreement, shall be subject to the provisions of P.L.1995, c.373 (C.56:8-67 et seq.) including the bonding requirement of section 11 of that act (C.56:8-77).

L. 1997, c. 22, s. 2.

56:8-68. Unlawful practices

2. It shall be an unlawful practice for a dealer:

a. To misrepresent the mechanical condition of a used motor vehicle;

b. To fail to disclose, prior to sale, any material defect in the mechanical condition of the used motor vehicle which is known to the dealer;

c. To represent that a used motor vehicle, or any component thereof, is free from material defects in mechanical condition at the time of sale, unless the dealer has a reasonable basis for this representation at the time it is made;

d. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer, if known to the dealer;

e. To misrepresent the terms of any written warranty, service contract or repair insurance currently in effect on a used motor vehicle provided by a person other than the dealer, and subject to transfer to a consumer;

f. To fail to disclose, prior to sale, the existence and terms of any written warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;

g. To misrepresent the terms of any warranty, service contract or repair insurance offered by the dealer in connection with the sale of a used motor vehicle;

h. To represent, prior to sale, that a used motor vehicle is sold with a warranty,

service contract or repair insurance when the vehicle is sold without any warranty, service contract or repair insurance;

i. To fail to disclose, prior to sale, that a used motor vehicle is sold without any warranty, service contract, or repair insurance; and

j. To fail to provide a clear written explanation, prior to sale, of what is meant by the term "as is," if the used motor vehicle is sold "as is."

L. 1995, c. 373, s. 2

56:8-69. Written warranty required; minimum durations

3. It shall be an unlawful practice for a dealer to sell a used motor vehicle to a consumer without giving the consumer a written warranty which shall at least have the following minimum durations:

a. If the used motor vehicle has 24,000 miles or less, the warranty shall be, at a minimum, 90 days or 3,000 miles, whichever comes first;

b. If the used motor vehicle has more than 24,000 miles but less than 60,000 miles, the warranty shall be, at a minimum, 60 days or 2,000 miles, whichever comes first; or

c. If the used motor vehicle has 60,000 miles or more, the warranty shall be, at a minimum, 30 days or 1,000 miles, whichever comes first, except that a consumer may waive his right to a warranty as provided under section 7 of this act.

L. 1995, c. 373, s. 3.

56:8-70. Written warranty; requirements of dealer

4. The written warranty shall require the dealer, upon failure or malfunction of a covered item during the term of the warranty, to correct the malfunction or defect, provided the used motor vehicle is delivered to the dealer, at his regular place of business, and subject to a deductible amount of $50 to be paid by the consumer for each repair of a covered item. This written warranty shall exclude repairs covered by any manufacturer's warranty, or recall program, as well as repairs of a covered item required because of collision, abuse, or the consumer's failure to properly maintain such used motor vehicle in accordance with the manufacturer's recommended maintenance schedule, or from damage of a covered item caused as a result of any commercial use of the used motor vehicle, or operation of such vehicle without proper lubrication or coolant, or as a result of any misuse, negligence or alteration of such vehicle by someone other than the dealer.

L.1995 c. 373, s.4

56:8-71. Dealer's failure to correct defect

5. a. If, within the periods specified in section 3 of this act, the dealer or his agent fails to

correct a material defect of the used motor vehicle, after a reasonable opportunity to repair the used motor vehicle, the dealer shall repurchase the used motor vehicle and refund to the consumer the full purchase price, excluding all sales taxes, title and registration fees, or any similar governmental charges, and less a reasonable allowance for excessive wear and tear and less a deduction for personal use of such vehicle. Refunds shall be made to the consumer and lienholder, if any, as their interests appear on the records of ownership kept by the Director of the Division of Motor Vehicles.

b. It shall be an affirmative defense to any claim under this section that:

(1) The alleged material defect does not substantially impair the use, value or safety of the used motor vehicle; or

(2) The material defect is the result of abuse, neglect or unauthorized modification or alteration of the used motor vehicle by anyone other than the dealer or his agent.

c. It shall be presumed that a dealer has a reasonable opportunity to correct or repair a material defect in a used motor vehicle, if:

(1) The same material defect has been subject to repair three or more times by the dealer or his agent within the warranty period, but the material defect continues to exist; or

(2) The used motor vehicle is out of service by reason of waiting for the dealer to begin or complete repair of the material defect for a cumulative total of 20 or more days during the warranty period.

L.1995 c. 373, s.5.

56:8-72. Term of warranty extended for repairs

6. The term of any written warranty offered by a dealer in connection with the sale of a used motor vehicle shall be extended by any time period during which the used motor vehicle is waiting for the dealer or his agent to begin or complete repairs of a material defect of the used motor vehicle.

L.1995 c. 373, s.6

56:8-73. Waiver of dealer's obligation to provide warranty

7. Notwithstanding any provision of this act to the contrary, a consumer, as a result of a price negotiation for the purchase of a used motor vehicle with over 60,000 miles, may elect to waive the dealer's obligation to provide a warranty on the used motor vehicle. The waiver shall be in writing and separately stated in the agreement of retail sale or in an attachment thereto and separately signed by the consumer. The waiver shall state the dealer's obligation to provide a warranty on used motor vehicles offered for sale, as set forth in sections 3 and 4 of this act. The waiver shall indicate that the consumer, having

negotiated the purchase price of the used motor vehicle and obtained a price adjustment, is electing to waive the dealer's obligation to provide a warranty on the used motor vehicle and is buying the used motor vehicle "as is."

L.1995 c. 373, s.7

56:8-74. Warranty given as a matter of law

8. If a dealer fails to give a written warranty required by this act, the dealer nevertheless shall be deemed to have given the warranty as a matter of law, unless a waiver has been signed by the consumer in accordance with section 7 of this act.

L.1995 c. 373, s.8

56:8-75. Remedies, rights preserved

9. Nothing in this act shall in any way limit the rights or remedies which are otherwise available to a consumer under any other law.

L.1995 c. 373, s.9.

56:8-76. Nonapplicability of act

10. The provisions of sections 3, 4, and 5 shall not apply to: any used motor vehicle sold for less than $3,000; any used motor vehicle over seven or more model years old; any used motor vehicle which has been declared a total loss by an insurance company and with respect to which the consumer, at or prior to the time of sale, has been advised in writing that the used motor vehicle has been declared a total loss by an insurance company; or, any used motor vehicle with more than 100,000 miles.

L.1995 c. 373, s.10

56:8-77. Bond to assure compliance

11. To assure compliance with the requirements of this act, a dealer shall provide a bond in favor of the State of New Jersey in the amount of $10,000, executed by a surety company authorized to transact business in the State of New Jersey by the Department of Insurance and to be conditioned on the faithful performance of the provisions of this act. This bond shall be for the term of 12 months and shall be renewed at each expiration for a similar period. The Director of the Division of Motor Vehicles shall not issue a dealer's license and shall not renew a license of any dealer who has not furnished proof of the existence of the bond required by this act.

L.1995 c. 373, s.11

56:8-78. Rules, regulations

12. The Director shall adopt rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) to effectuate the purposes of this act.

L.1995 c. 373, s.12

56:8-79. Consumer awareness program required

13. The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act, within 120 days following enactment of this act.

L.1995 c. 373, s.13

56:8-80. Administrative fee established

14. The director may establish an administrative fee, to be paid by the consumer, in order to implement the provisions of this act, which fee shall be fixed at a level not to exceed the cost for the administration and enforcement of this act.

L.1995 c. 373, s.14.

Industrial Hygienist Truth in Advertising Act

56:8-81. Short title

1. This act shall be known and may be cited as the "Industrial Hygienist Truth in Advertising Act."

L. 1996, c. 130, s. 1

56:8-82. Findings, declarations relative to industrial hygiene

2. The Legislature finds and declares that it is necessary to provide assurance to the public that individuals who represent themselves as being involved in the profession of industrial hygiene have met certain qualifications.

L. 1996, c. 130, s. 2.

56:8-83. Definitions relative to industrial hygiene

3. As used in this act:

"Accredited college or university" means a college or university that is accredited by one of the following six regional accrediting agencies: Middle States Association of Colleges and Schools, New England Association of Schools and Colleges, North Central Association of Colleges and Schools, Northwest Association of Schools and Colleges, Southern Association of Colleges and Schools, or Western Association of Schools and Colleges. A college or university that is located outside of the United States will be considered on the basis of its accreditation status in the education system that has jurisdiction.

"Certified industrial hygienist" or "CIH" means a person who has met the

education, experience, and examination requirements of an industrial hygiene certification organization and whose certification has not lapsed or been revoked.

"Certified industrial hygienist in training" or "CIHIT" is a person who has received the designation industrial hygienist in training from an industrial hygiene certification organization and whose certification has not lapsed or been revoked.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Industrial hygiene" means the science and practice devoted to the anticipation, recognition, evaluation, and control of those factors and stresses arising in or from the workplace or the environment that may cause sickness, impaired health and well-being, or significant discomfort among workers or members of the community.

"Industrial hygiene certification organization" means a professional organization of certified industrial hygienists which has been in existence for at least five years and which has been established to improve the practice and educational standards of the profession of industrial hygiene by certifying individuals who meet its education, experience and examination requirements. The organization shall have its certifying examinations evaluated by a national testing service and shall maintain criteria that are at least the equivalent of the American Board of Industrial Hygiene.

"Industrial hygienist" means a person who has an industrial hygienist education as defined in this section.

"Industrial hygienist education" means a baccalaureate or graduate degree from an accredited college or university in industrial hygiene, biology, chemistry, engineering, physics, or a closely related physical or biological science; or a baccalaureate or graduate degree from an accredited college or university that contains at least 60 semester credit hours in undergraduate or graduate level courses in science, mathematics, engineering and technology, with at least 15 of those hours in courses offered at the upper (junior, senior or graduate) level. A degree that is heavily comprised of only one of those subject areas in the absence of others, may be judged unacceptable. An unacceptable baccalaureate degree may be remedied by additional science coursework from an accredited college or university or by completion of a related graduate degree from an accredited college or university.

L. 1996, c. 130, s. 3

56:8-84. Unlawful practices

4. a. It shall be an unlawful practice for any person to advertise or hold himself out as a certified industrial hygienist in training or "CIHIT", or as a certified industrial hygienist or "CIH", unless that person is certified by an industrial hygiene certification organization.

b. It shall be an unlawful practice for any person who does not have an industrial hygienist education to advertise or hold himself out as an industrial hygienist.

L. 1996, c. 130, s. 4

56:8-85. Nonapplicability of act to supervised apprentices, students

5. This act shall not apply to:

a. A person employed as an apprentice under the supervision of an industrial hygienist, certified industrial hygienist in training or certified industrial hygienist; or

b. A student studying industrial hygiene engaging in supervised activities related to industrial hygiene.

L. 1996, c. 130, s. 5

Telecommunications services providers

56:8-86. Definitions relative to telecommunications service providers

1. As used is this act:

"Board" means the Board of Public Utilities.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Telecommunications service provider" means any individual, firm, joint venture, partnership, corporation, association, public utility, cooperative association, joint stock association and includes any trustee, receiver, assignee, representative, provider of intrastate, interLATA, intraLATA or local exchange telecommunications service to an end-use customer.

"Service for which there are multiple providers" means a service for which customers have the ability to subscribe or select from more than one telecommunications service provider.

L. 1998, c. 82, s.1.

56:8-87. Change, redirection of telecommunications service provider; conditions

2. No telecommunications service provider or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications service provider, shall, on behalf of a customer, make any change or direct a different telecommunications service provider to make any change in a provider of a telecommunications service for which there are multiple providers, unless the provider, agent or representative complies with authorization and confirmation procedures established by the board and by federal law and rules. In construing and enforcing the provisions of this section, the act of any person, firm or corporation acting as agent or representative acting on behalf of a telecommunications service provider within the parameters of the working agreement set forth by the

telecommunications service provider shall be deemed to be the act of that telecommunications service provider.

L. 1998, c. 82, s.2.

56:8-88. Processing of change orders

3. No telecommunications service provider or any person, firm or corporation acting as an agent or representative on behalf of a telecommunications service provider, shall, on behalf of a customer, fail to make any change in a provider of a telecommunications service for which there are multiple providers when such change order has been received in a manner that complies with federal and State rules and regulations. All such change orders shall be properly processed to assure that the order is completed and service will be provided by the new telecommunications service provider of choice within 30 business days of receipt of the compliant change order, which may be extended for good cause by the board for an additional 30-day period, unless otherwise agreed to by the customer, or as specified by rule or order of the board, or as agreed to by the telecommunications service providers involved in the change, or by federal law or rule.

L. 1998, c. 82, s.3.

56:8-89 Rules, regulations relative to telecommunications service providers.

4. The board, in consultation with the director, shall adopt rules and regulations relating to changes in telecommunications service providers that are consistent with federal law, rules and regulations and which, among other requirements, shall establish procedures for a customer to confirm a change in a telecommunications service provider made by another telecommunications service provider on behalf of the customer, establish procedures by which the new telecommunications service provider shall notify a customer of a change in a telecommunications service provider, and set forth methods for enforcing those rules and regulations, pursuant to an agreement with the Federal Communications Commission. Such agreement shall include a provision which requires the board to issue an order citing the provision of federal law, rules or regulations of which a telecommunications service provider is in violation, citing the action which constituted the violation, ordering abatement of the violation, and giving notice to the telecommunications service provider of the right to a hearing on the matters contained in the order, whenever it appears to the board that the telecommunications service provider has violated any provision of federal law, rule or regulation relating to a change in telecommunications service providers where the customer of the telecommunications service provider is a resident of this State.

L. 1998, c. 82, s.4; amended 2001, c. 330, s.1

56:8-89.1 Rules, regulations to enforce FCC agreement.

2. The board shall promulgate, in accordance with the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), such rules and regulations as may be necessary to effectuate the purposes of this act, including the methods for enforcing those rules and regulations pursuant to an agreement with the Federal Communications Commission.

L. 2001, c. 330, s.2

56:8-90. Change notification; bill information

5. When an authorized change in a telecommunications service provider is made, the new telecommunications service provider shall be responsible for notifying the customer of the change within 30 days in the manner determined by the board pursuant to section 4 of this act. In addition, any bill for intrastate, interLATA, intraLATA or local exchange service shall contain the name and telephone number of each telecommunications service provider for which billing is provided, and any other information deemed applicable by the telecommunications service provider.

L. 1998, c. 82, s.5.

56:8-91. Violations, penalties

6. A telecommunications service provider who is determined by the board, after notice and opportunity to be heard, to have willfully or intentionally violated any provision of this act or any rule, regulation or order adopted pursuant hereto or to have violated any federal law and rules relating to changes in telecommunications service providers applicable to intrastate service shall be liable to a civil penalty not to exceed $7,500 for a first violation and not to exceed $15,000 for each subsequent violation associated with a specific access line within the State. All moneys recovered from an administrative penalty imposed pursuant to this section shall be paid into the State Treasury to the credit of the General Fund.

L. 1998, c. 82, s.6

Pet Purchase Protection Act

56:8-92 Short title.

1. This act shall be known and may be cited as the "Pet Purchase Protection Act."

L. 1999, c. 336, s. 1

56:8-93 Definitions relative to sales of cats and dogs.

2. As used in sections 1 through 5 of this act:

"Animal" means a cat or dog;

"Consumer" means a person purchasing a cat or dog;

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety;

"Division" means the Division of Consumer Affairs in the Department of Law and

Public Safety;

"Pet dealer" means any person engaged in the ordinary course of business in the sale of cats or dogs to the public for profit or any person who sells or offers for sale more than five cats or dogs in one year;

"Pet shop" means a pet shop as defined in section 1 of P.L.1941, c.151 (C.4:19-15.1);

"Quarantine" means to hold in segregation from the general population any cat or dog because of the presence or suspected presence of a contagious or infectious disease;

"Unfit for purchase" means any disease, deformity, injury, physical condition, illness or defect which is congenital or hereditary and severely affects the health of the animal, or which was manifest, capable of diagnosis or likely contracted on or before the sale and delivery of the animal to the consumer. The death of an animal within 14 days of its delivery to the consumer, except by death by accident or as a result of injuries sustained during that period, shall mean the animal was unfit for purchase; and

"Veterinarian" means a veterinarian licensed to practice in the State of New Jersey.

L. 1999, c. 336, s.2

56:8-94 Construction of act.

3. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke the requirements for pet dealers that are not pet shops or the rights of a consumer purchasing an animal from a pet dealer that is not a pet shop, as may be provided elsewhere in law or any rule or regulation adopted pursuant thereto. Except as provided in section 4 and section 5 of P.L.1999, c.336 (C.56:8-95 and C.56:8-96), any provision of law pertaining to pet shops, or rule or regulation adopted pursuant thereto, shall continue to apply to pet shops. No provision of this act shall be construed in any way to alter, diminish, replace, or revoke any recourse or remedy that is otherwise available to a consumer purchasing a cat or a dog from a pet shop under any other law.

L. 1999, c. 336, s.3.

56:8-95 Noncompliance by pet shop considered deceptive practice.

4. a. Notwithstanding the provisions of any rule or regulation adopted pursuant to Title 56 of the Revised Statutes as such provisions are applied to pet shops, and without limiting the prosecution of any other practices which may be unlawful pursuant to Title 56 of the Revised Statutes, it shall be a deceptive practice for any owner or operator of a pet shop, or employee thereof, to sell animals within the State without complying with the provisions and requirements of this section.

b. Within five days prior to the offering for sale of any animal, the owner or operator of a pet shop, or employee thereof, shall have the animal examined by a veterinarian

licensed to practice in the State. The name and address of the examining veterinarian, together with the findings made and treatment, if any, ordered as a result of the examination, shall be noted on the animal history and health certificate for each animal as required by regulations adopted pursuant to Title 56 of the Revised Statutes. If fourteen days have passed since the last veterinarian examination of the animal, the owner or operator of the pet shop, or employee thereof, shall have the animal reexamined by a veterinarian licensed to practice in the State as provided for in subsection g. of this section, except as otherwise provided in that subsection.

c. Each cage in a pet shop shall have a label identifying the sex and breed of each animal kept in the cage, the date and place of birth of each animal, and the name and address of the veterinarian attending to the animal and the date of the initial examination of the animal.

d. The owner or operator of a pet shop, or employee thereof, shall quarantine any animal diagnosed as suffering from a contagious or infectious disease, illness, or condition and may not sell such an animal until such time as a veterinarian licensed to practice in the State treats the animal and determines that such animal is free of clinical signs of infectious disease or that the animal is fit for sale. All animals required to be quarantined pursuant to this subsection shall be placed in a quarantine area, separated from the general animal population of the pet shop.

e. The owner or operator of a pet shop, or designated employee thereof, may inoculate and vaccinate animals prior to purchase only upon the order of a veterinarian. No owner or operator of a pet shop, or employee thereof, may represent, directly or indirectly, that the owner or operator of the pet shop, or any employee thereof, other than a veterinarian, is qualified to, directly or indirectly, diagnose, prognose, treat, or administer for, prescribe any treatment for, operate concerning, manipulate or apply any apparatus or appliance for addressing, any disease, pain, deformity, defect, injury, wound or physical condition of any animal after purchase of the animal, for the prevention of, or to test for, the presence of any disease, pain, deformity, defect, injury, wound or physical condition in an animal after its purchase. These prohibitions include, but are not limited to, the giving of inoculations or vaccinations after purchase, the diagnosing, prescribing and dispensing of medication to animals and the prescribing of any diet or dietary supplement as treatment for any disease, pain, deformity, defect, injury, wound or physical condition.

f. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall provide each owner or operator of a pet shop with notification forms, to be signed by the owner or operator of the pet shop, or employee thereof, and the consumer at the time of purchase of an animal. The notification form shall provide the following:

(1) The full text of the rights and responsibilities provided for in subsection h. of this section;

(2) The full text and description of the recourse to which the consumer is entitled pursuant to subsection i. of this section;

(3) The statement that it is the responsibility of the consumer to obtain such certification within the required amount of time provided by subsection h. of this section;

(4) The full text of the rights and responsibilities of the owner or operator of the pet shop, and the employees thereof, and the consumer provided in subsection l. of this section; and

(5) The notification, reporting and enforcement provisions provided in section 5 of P.L.1999, c.336 (C.56:8-96), including the name and address of the local health authority with jurisdiction over the pet shop.

The owner or operator of the pet shop, or an employee thereof, shall obtain the signature of the consumer on the form and shall also sign the form at the time of purchase of an animal, and shall provide the consumer with a signed copy of the form and retain a copy of the form on the pet shop premises. Copies of all such notices shall be readily available for inspection by an authorized representative of the Division of Consumer Affairs, upon request. No pet shop owner or operator, or employee thereof, may construe or use the signed notification form required pursuant to this subsection as an abdication of the right to recourse provided for in subsection i., or as a selection of recourse pursuant to subsection k. of this section.

g. The owner or operator of a pet shop, or an employee thereof, shall have any animal that has been examined more than 14 days prior to the date of purchase, reexamined by a veterinarian for the purpose of disclosing its condition, within 72 hours of the delivery of the animal to the consumer, unless the consumer has waived the right to the reexamination in writing. The owner or operator of a pet shop, or an employee thereof, shall provide a copy of the written waiver to the consumer prior to the signing of any contact or agreement to purchase the animal and the written waiver shall be in the form established by the director by regulation.

h. If at any time within 14 days after the sale and delivery of an animal to a consumer, the animal becomes sick or dies and a veterinarian certifies, within the 14 days after the date of purchase of the animal by the consumer, that the animal is unfit for purchase due to a non-congenital cause or condition, or that the animal died from causes other than an accident, the consumer is entitled to the recourse described in subsection i. of this section.

If the animal becomes sick or dies within 180 days after the date of purchase and a veterinarian certifies, within the 180 days after the date of purchase of the animal by the consumer, that the animal is unfit for sale due to a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition, or died from such a cause or condition or sickness, the consumer shall be entitled to the recourse provided in subsection i. of this section.

It shall be the responsibility of the consumer to obtain such certification within the required amount of time provided by this subsection, unless the owner or operator of the pet shop, or the employee thereof selling the animal to the consumer, fails to provide the notice required pursuant to subsection f. of this section. If the owner or operator of the pet shop, or the employee thereof, fails to provide the required notice, the consumer shall be entitled to the recourse provided for in subsection i. of this section.

i. Only the consumer shall have the sole authority to determine the recourse the consumer wishes to select and accept, provided that the recourse selected is one of the following:

(1) The right to return the animal and receive a full refund of the purchase price, including sales tax, plus the reimbursement of the veterinary fees, including the cost of the veterinarian certification, incurred prior to the receipt by the consumer of the veterinarian certification;

(2) The right to retain the animal and to receive reimbursement for veterinary fees incurred prior to the consumer's receipt of the veterinarian certification, plus the future cost of veterinary fees to be incurred in curing or attempting to cure the animal, including the cost of the veterinarian certification;

(3) The right to return the animal and to receive in exchange an animal of the consumer's choice, of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the consumer's receipt of the veterinarian certification; or

(4) In the event of the death of the animal from causes other than an accident, the right to a full refund of the purchase price of the animal, including sales tax, or another animal of the consumer's choice of equivalent value, plus reimbursement of veterinary fees, including the cost of the veterinarian certification, incurred prior to the death of the animal.

The consumer shall be entitled to be reimbursed an amount for veterinary fees up to and including two times the purchase price, including sales tax, of the sick or dead animal. No reimbursement of veterinary fees shall exceed two times the purchase price, including sales tax, of the sick or dead animal.

j. The veterinarian shall provide to the consumer in writing and within the seven days after the consumer consults with the veterinarian any certification that is appropriate pursuant to this section upon the determination that such certification is appropriate. The certification shall include:

(1) The name of the owner;

(2) The date or dates of examination;

(3) The breed, color, sex and age of the animal;

(4) A statement of the findings of the veterinarian;

(5) A statement that the veterinarian certifies the animal to be "unfit for purchase";

(6) An itemized statement of veterinary fees incurred as of the date of certification;

(7) If the animal may be curable, an estimate of the possible cost to cure, or attempt to cure, the animal;

(8) If the animal has died, a statement establishing the probable cause of death; and

(9) The name and address of the certifying veterinarian and the date of the certification.

k. Upon the presentation of the veterinarian certification required in subsection j. of this section to the pet shop, the consumer shall select the recourse to be provided and the owner or operator of the pet shop, or the employee thereof, shall confirm the selection of recourse in writing. The confirmation of the selection shall be signed by the owner or operator of the pet shop, or an employee thereof, and the consumer and a copy of the signed confirmation shall be given to the consumer and retained by the owner or operator of the pet shop, or employee thereof, on the pet shop premises. The confirmation of the selection shall be in the form established by the director by regulation.

l. The owner or operator of the pet shop, or an employee thereof, shall comply with the selection of recourse by the consumer no later than 10 days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. In the event the owner or operator of the pet shop, or an employee thereof, wishes to contest the selection of recourse of the consumer, the owner or operator of the pet shop, or an employee thereof, shall notify the consumer and the director in writing within the five days after the receipt of the veterinarian certification and the signed confirmation of selection of recourse form. After notification to the consumer and the director of the division, the owner or operator of the pet shop, or an employee thereof, may require the consumer to produce the animal for examination by a veterinarian chosen by the owner or operator of the pet shop, or employee thereof, at a mutually convenient time and place, except if the animal has died and was required to be cremated for public health reasons. The director shall set, upon receipt of such notice of contest on the part of the owner or operator of the pet shop, or an employee thereof, a hearing date and hold a hearing, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) and the Uniform Administrative Procedure Rules adopted pursuant thereto, to determine whether the recourse selected by the consumer should be allowed. The consumer and the owner or operator of the pet shop, or employee thereof, shall be entitled to any appeal of the decision resulting from the hearing as may be provided for under the law, or any rule or regulation adopted pursuant thereto, but upon the exhaustion of such remedies and recourse, the consumer and the

owner or operator of the pet shop shall comply with the final decision rendered.

m. Any owner or operator of a pet shop, or employee thereof, shall be guilty of a deceptive practice if the owner or operator, or employee thereof, secures or attempts to secure a waiver of any of the provisions of this section except as specifically authorized under subsection g. of this section.

n. The owner of a pet shop shall be responsible and liable for any recourse or reimbursement due to a consumer because of violations of any provisions of this section by the owner or operator of the pet shop, or any employee thereof, or because of any document signed pursuant to this section by the owner or operator of the pet shop, or any employee thereof.

L. 1999, c. 336, s.4

56:8-96 Certification from veterinarian, recourse.

5. a. Any consumer who purchases from a pet shop an animal that becomes sick or dies after the date of purchase may take the sick or dead animal to a veterinarian within the period of time required pursuant to the notification form provided upon the date of purchase, receive certification from the veterinarian of the health and condition of the animal, and pursue the recourse provided for under the circumstances indicated by the veterinarian certification, as required and provided for pursuant to section 4 of P.L.1999, c.336 (C.56:8-95).

b. Upon receipt of the certification from the veterinarian, the consumer may report the sickness or death of the animal and the pet shop where the animal was purchased to the local health authority with jurisdiction over the municipality in which the pet shop where the animal was purchased is located, and to the Director of the Division of Consumer Affairs in the Department of Law and Public Safety. The consumer shall provide a copy of the veterinarian certificate with any such report. The director shall forward to the appropriate local health authority a copy of any such report the division receives. The local health authority shall record and retain the records of any such report and documentation submitted by a consumer.

c. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located the revocation of the license of any pet shop with reports filed as follows:

(1) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 25% of the total number of animals sold in a year by the pet shop were certified

by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 10% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

d. By the May 1 immediately following the effective date of this act, and annually thereafter, the local health authority with jurisdiction over pet shops shall review any files it has concerning reports filed pursuant to subsection b. of this section and shall recommend to the municipality in which the pet shop is located a 90-day suspension of the license of any pet shop with reports filed as follows:

(1) 10% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition;

(2) 15% of the total number of animals sold in a year by the pet shop were certified by a veterinarian to be unfit for purchase due to a non-congenital cause or condition;

(3) 5% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a non-congenital cause or condition; or

(4) 3% of the total number of animals sold in a year by the pet shop died and were certified by a veterinarian to have died from a congenital or hereditary cause or condition, or a sickness brought on by a congenital or hereditary cause or condition.

e. Pursuant to the authority and requirements provided in section 8 of P.L.1941, c.151 (C.4:19-15.8), the owner of the pet shop shall be afforded a hearing and, upon the recommendation by the local health authority pursuant to subsection c. or d. of this section, the local health authority, in consultation with the State Department of Health and Senior Services, shall set a date for the hearing to be held by the local health authority or the State Department of Health and Senior Services and shall notify the pet shop involved. The municipality may suspend or revoke the license, or part thereof, that authorizes the pet shop to sell cats or dogs after such hearing has been held and as provided in section 8 of P.L.1941, c.151 (C.4:19-15.8). At the hearing, the local health authority or the State Department of Health and Senior Services, whichever entity is holding the hearing, shall receive testimony from the pet shop and shall determine if the pet shop: (1) failed to maintain proper hygiene and exercise reasonable care in

safeguarding the health of animals in its custody, or (2) sold a substantial number of animals that the pet shop knew, or reasonably should have known, to be unfit for purchase.

f. No provision of subsection c. shall be construed to restrict the local health authority or the State Department of Health and Senior Services from holding a hearing concerning any pet shop in the State irrespective of the criteria for recommendation of license suspension or revocation named in subsection c. or d., or from recommending to a municipality the suspension or revocation of the license of a pet shop within its jurisdiction for other violations under other sections of law, or rules and regulations adopted pursuant thereto.

g. No action taken by the local health authority or municipality pursuant to this section or section 8 of P.L.1941, c.151 (C.4:19-15.8) shall be construed to limit or replace any action, hearing or review of complaints concerning the pet shop by the Division of Consumer Affairs in the Department of Law and Public Safety to enforce consumer fraud laws or other protections to which the consumer is entitled.

h. The requirements of this section shall be posted in a prominent place in each pet shop in the State along with the name, address and telephone number of the local health authority that has jurisdiction over the pet shop, and this information shall be provided in writing at the time of purchase to each consumer and to each licensed veterinarian contracted for services by the pet shop upon contracting the veterinarian.

i. The Director of the Division of Consumer Affairs may investigate and pursue enforcement against any pet shop reported by a consumer pursuant to subsection b. of this section.

L. 1999, c. 336, s.5

56:8-97 Rules, regulations.

7. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety may adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), any rules or regulations as the director deems necessary for the implementation of this act.

L. 1999, c. 336, s.7

Halal Food Consumer Protection Act

56:8-98 Short title.

1. Sections 1 through 6 of this act shall be known and may be cited as the "Halal Food Consumer Protection Act."

L. 2001, c. 60. s.1

56:8-99 Definitions relative to food represented as halal.

2. As used in this act:

"Dealer" means any establishment that advertises, represents or holds itself out as selling, preparing or maintaining food as halal, including, but not limited to, manufacturers, slaughterhouses, wholesalers, stores, restaurants, hotels, catering facilities, butcher shops, summer camps, bakeries, delicatessens, supermarkets, grocery stores, nursing homes, freezer dealers and food plan companies. These establishments may also sell, prepare or maintain food not represented as halal.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety or the director's designee.

"Food" means a food, food product, food ingredient, dietary supplement or beverage.

L. 2001, c. 60. s.2

56:8-100 Posting of information by dealer representing food to be halal.

3. a. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be halal, shall disclose the basis upon which that representation is made by posting the information required by the director, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4), on a sign of a type and size specified by the director in a conspicuous place upon the premises at which the food is sold or exposed for sale as required by the director.

b. It shall be an unlawful practice for any person to violate the requirements of subsection a. of this section.

L. 2001, c. 60. s.3

56:8-101 Reliance on representation, good faith, defense.

4. Any person subject to the requirements of section 3 of this act shall not have committed an unlawful practice if it can be shown by a preponderance of the evidence that the person relied in good faith upon the representations of a slaughterhouse, manufacturer, processor, packer or distributor of any food represented to be halal.

L. 2001, c. 60. s.4

56:8-102 Possession of food implies intent to sell.

5. Possession by a dealer of any food not in conformance with the disclosure required by section 3 of this act with respect to that food is presumptive evidence that the person is in possession of that food with the intent to sell.

L. 2001, c. 60. s.5.

56:8-103 Compliance required by dealer in regard to food represented as halal.

6. Any dealer who prepares, distributes, sells or exposes for sale any food represented to be halal shall comply with all requirements of the director, including, but not limited to, recordkeeping, labeling and filing, pursuant to regulations adopted pursuant to the authority provided in section 4 of P.L.1960, c.39 (C.56:8-4).

L. 2001, c. 60. s. 6.

Home solicitation

56:8-104 Definitions relative to certain loans for senior citizens.

1. For the purposes of this act:

"Home solicitation" means any transaction made at the consumer's primary residence, except those transactions initiated by the consumer. A consumer response to an advertisement is not a home solicitation.

"Senior citizen" means an individual who is 60 years of age or older.

"Transaction" means a sale as defined in subsection e. of section 1 of P.L.1960, c.39 (C.56:8-1).

L. 2001, c. 125. s.1

56:8-105 Certain home improvement loans unlawful.

2. It shall be an unlawful practice for a person to make a home solicitation of a consumer who is a senior citizen where a loan is made encumbering the primary residence of that consumer for the purposes of paying for home improvements and where the transaction is part of a pattern or practice in violation of either subsection (h) or (i) of 15 U.S.C. s.1639 or subsection (e) of 12 C.F.R. s.226.32.

L. 2001, c.125. s. 2.

56:8-106 Immunity from liability for third party, exception.

3. A third party shall not be liable for an unlawful practice under section 2 of this act unless there was an agency relationship between the person who engaged in the home solicitation and the third party.

L. 2001, c. 125. s. 3.

Excessive price increase

56:8-107 Findings, declarations relative to excessive price increases at certain times.

1. The Legislature finds and declares that during emergencies and major disasters, including, but not limited to, earthquakes, fires, floods or civil disturbances, some merchants have taken unfair advantage of consumers by greatly increasing prices for certain merchandise. While the pricing of merchandise is generally best left to the marketplace under ordinary conditions, when a declared state of emergency results in abnormal disruptions of the market, the public interest requires that excessive and unjustified price increases in the sale of certain merchandise be prohibited. It is the intention of the Legislature to prohibit excessive and unjustified price increases in the sale of certain merchandise during declared states of emergency in New Jersey.

L. 2001, c. 297, s.1

56:8-108 Definitions relative to excessive price increases at certain times.

2. As used in this act:

"Excessive price increase" means a price that is excessive as compared to the price at which the consumer good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency. A price shall be deemed excessive if:

(1) The price exceeds by more than 10 percent the price at which the good or service was sold or offered for sale by the seller in the usual course of business immediately prior to the state of emergency, unless the price charged by the seller is attributable to additional costs imposed by the seller's supplier or other costs of providing the good or service during the state of emergency;

(2) In those situations where the increase in price is attributable to additional costs imposed by the seller's supplier or additional costs of providing the good or service during the state of emergency, the price represents an increase of more than 10 percent in the amount of markup from cost, compared to the markup customarily applied by the seller in the usual course of business immediately prior to the state of emergency.

"State of emergency" means a natural or man-made disaster or emergency for which a state of emergency has been declared by the President of the United States or the Governor, or for which a state of emergency has been declared by a municipal emergency management coordinator.

L. 2001, c. 297, s.2

56:8-109 Unlawful practice to sell merchandise at excessive price during emergency.

3. It shall be an unlawful practice for any person to sell or offer to sell during a state of emergency or within 30 days of the termination of a state of emergency, in the area for which the state of emergency has been declared, any merchandise which is consumed or used as a direct result of an emergency or which is consumed or used to preserve, protect, or sustain the life, health, safety or comfort of persons or their property for a price that constitutes an excessive price

increase.

L. 2001, c. 297, s.3

Gift certificates

56:8-110 Gift certificate, card, validity, terms, required; definitions.

1. a. A gift certificate or gift card sold after the effective date of this amendatory act shall retain full unused value until presented in exchange for merchandise, or shall have any and all conditions and limitations, as permitted in paragraphs (1) through (3) of this subsection, disclosed to the purchaser of the gift certificate or gift card at the time of purchase as provided in subsection b. of this section.

(1) In no case shall a gift certificate or gift card expire within the 24 months immediately following the date of sale.

(2) No dormancy fee shall be charged against a gift certificate or a gift card within the 24 months immediately following the date of sale, nor shall one be charged within the 24 months immediately following the most recent activity or transaction in which the certificate or card was used.

(3) A dormancy fee charged against a gift certificate or gift card as permitted by this subsection shall not exceed $2.00 per month.

b. The terms of any expiration date or dormancy fee applicable to a gift certificate or gift card, as permitted by subsection a. of this section, shall be disclosed to a consumer by:

(1) written notice of the expiration date or dormancy fee or both printed in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card; and

(2) written notice, in at least 10 point font, on the gift certificate or gift card, or the sales receipt for the certificate or card, or the package for the certificate or card, of a telephone number which the consumer may call, for information concerning any expiration date or dormancy fee.

c. As used in this section:

"Dormancy fee" means a charge imposed against the unused value of a gift card or gift certificate due to inactivity;

"Gift card" means a tangible device, whereon is embedded or encoded in an

electronic or other format a value issued in exchange for payment, which promises to provide to the bearer merchandise of equal value to the remaining balance of the device. "Gift card" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

"Gift certificate" means a written promise given in exchange for payment to provide merchandise in a specified amount or of equal value to the bearer of the certificate. "Gift certificate" does not include a prepaid telecommunications or technology card, prepaid bank card or rewards card;

"Merchandise" means and includes any objects, wares, goods, commodities, services or anything offered, directly or indirectly, to the public for sale;

"Prepaid bank card" means a general use, prepaid card or other electronic payment device that is issued by a bank or other financial institution, or a licensed money transmitter, in a pre-denominated amount usable at multiple, unaffiliated merchants or at automated teller machines, or both, but shall not include a card issued by a retail merchant;

"Prepaid telecommunications or technology card" includes, but is not limited to: a prepaid telephone calling card; prepaid technical support card; or prepaid Internet disk distributed to or purchased by a consumer; and

"Rewards card" means a card or certificate distributed by the issuer to a consumer pursuant to an awards, loyalty, rewards or promotional program, without any money or other consideration or thing of value by the consumer in exchange for the card or certificate.

L. 2002, c.14, s. 1; amended 2005, c. 254, s. 1.

56:8-111 Rules, regulations.

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall adopt, pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), rules and regulations necessary to implement this act.

L. 2002, c.14, s. 2.

56:8-112 Violations deemed unlawful practice.

3. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate the provisions of this act.

L. 2002, c.14, s. 3.

Safety Professional Truth in Advertising Act

56:8-113. Short title

1. This act shall be known and may be cited as the "Safety Professional Truth in Advertising Act."

L. 2002, c.50, s. 1

56:8-114. Findings, declarations relative to qualification of safety professionals

2. The Legislature finds and declares that it is necessary to provide assurance to the public that individuals holding any safety certification have met certain qualifications.

L. 2002, c.50, s. 2.

56:8-115 Definitions relative to qualifications of safety professionals

3. As used in this act:

"Safety profession" means the science and art concerned with the preservation of human and material resources through the systematic application of principles drawn from such disciplines as engineering, education, psychology, physiology, enforcement and management for anticipating, identifying and evaluating hazardous conditions and practices; developing hazard control designs, methods, procedures and programs; implementing, administering and advising others on hazard controls and hazard control programs; and measuring, auditing and evaluating the effectiveness of hazard controls and hazard control programs.

"Safety professional certification organization" means a professional organization of safety professionals which has been in existence for at least five years and which has been established to improve the practice and educational standards of the safety profession by certifying individuals who meet its education, experience and examination requirements. The organization shall be accredited by the National Commission of Certifying Agencies (NCCA) or the Council of Engineering and Scientific Specialty Boards (CESB), or a nationally recognized accrediting body which uses certification criteria equal to or greater than that of the NCCA or CESB.

L. 2002, c.50, s. 3.

56:8-116 Certification by safety professional certification organization required

4. It shall be an unlawful practice for any person to advertise or hold himself out as possessing a professional safety certification from a safety professional certification organization unless that person is certified by the applicable safety professional certification organization.

L. 2002, c.50, s. 4.

Motor vehicle window tinted

56:8-117 Motor vehicle window tinting, informing customer of State restrictions; required.

It shall be an unlawful practice for a person engaged in the retail sale and installation of motor vehicle window tinting materials or film to:

a. Sell any such material or film without first notifying the purchaser that the application of these materials or film to the windshield or the front windows to the left and right of the driver of any motor vehicle registered in the State is a violation of State law and regulation. The notice required under this paragraph shall be given by the conspicuous posting of a sign at the point where the window tinting materials or film are offered for sale. The sign shall state substantially the following:

"NJ STATE LAW PROHIBITS ADD-ON TINTING ON WINDSHIELDSAND FRONT SIDE WINDOWS"

The notice required under this paragraph shall not apply to catalog sales of motor vehicle tinting materials or film where the purchase and payment are made by mail, telephone or other telecommunications or electronic method; or

b. Install or apply any such material or film on or to the windshield or the windows to the left and right of the driver of any motor vehicle registered in the State unless the purchaser exhibits a certificate or card, issued pursuant to P.L.1999, c.308 (C.39:3-75.1 et seq.), authorizing the installation or application of the material or film on or to the windshield or front windows to the left and right of the driver of that car for medical reasons involving ophthalmic or dermatologic photosensitivity.

L. 2003, c.21, s. 1

56:8-118. Rules, regulations; public information program

2. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall:

a. Pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), promulgate rules and regulations to effectuate the purposes of this act; and

b. Develop and undertake a public information program to inform persons engaged in the retail sale and installation of motor vehicle window tinting materials and film and the general public of the provisions of this act.

L. 2003, c.21, s. 2

Telemarketing

56:8-119. Findings, declarations relative to telemarketing calls

1. a. The Legislature finds and declares that telemarketing calls:

(1) Have interrupted the public's privacy, family life and home sanctity with unsolicited phone calls to sell products and services;

(2) Cannot be selectively ignored by recipients, since the calls are commonly made by means which do not enable the recipient to use caller I.D. to identify, in advance, a telemarketing call or an emergency;

(3) May arrive at inconvenient times when a resident or family member is retired for the night;

(4) May arrive when a resident or family member is having a meal and the interruption disrupts valuable time when family members are together, where family members are more remote from a telephone and when food may, during the interruption, cool, melt, thicken, dry, or undergo a change in palatability;

(5) May arrive at inconvenient times when a resident or family member is engaged in entertainment, a compelling activity or relaxation;

(6) Use a strategy called "predictive calling" which results in tens of thousands of call recipients rushing to answer phone calls, to find no one is on the line. This results in great aggravation and inconvenience to the public, merely to spare telemarketers (who won't identify themselves as the source of the aggravation) the inconvenience of finding no one home;

(7) Have been made to wireless phone lines resulting in cost to the recipient, and in some cases, endangering the recipient's safety when they may have been driving;

(8) Have been increasing in number, causing increased inconvenience, widespread public outrage and urgent appeals to protect the public from such calls;

(9) Are not the only means for marketers to promote their product or services to prospective customers, although marketers often claim it to be more economical and more productive than other means to provide the benefits of increased competition. Marketers have available mail, email, face to face personal solicitation and various forms of advertising;

(10) Are in some cases beyond the regulatory jurisdiction of this Legislature and any New Jersey statute, because they are forms of speech protected by State and federal constitutional case law.

b. The Legislature further declares it to be the policy of this State to provide the broadest possible protection to protect public privacy and the sanctity of homes and to protect families and individuals from unsolicited interruptions.

c. It is not the intent of the State to restrict telemarketing activity where such activity is

protected by State and federal case law, where such restriction is prohibited by State and federal constitutional case law or to restrict purely charitable activities.

L. 2003, c.76, s. 1

56:8-120. Definitions relative to telemarketing calls

2. As used in this act:

"Customer" means an individual who is a resident of this State and a prospective recipient of a telemarketing sales call.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Local exchange telephone company" means a telecommunications carrier authorized by the Board of Public Utilities to provide local telecommunications services.

"Merchandise" means merchandise as defined in subsection (c) of section 1 of P.L.1960, c.39 (C.56:8-1), including an extension of credit.

"No telemarketing call list" or "no call list" means a list of telephone numbers of customers in this State who desire not to receive unsolicited telemarketing sales calls.

"Telemarketer" means any entity, whether an individual proprietor, corporation, partnership, limited liability corporation or any other form of business organization, whether on behalf of itself or others, who makes residential telemarketing sales calls to a customer when the customer is in this State or any person who directly controls or supervises the conduct of a telemarketer.

"Telemarketing" means any plan, program or campaign which is conducted by telephone to encourage the purchase or rental of, or investment in, merchandise, but does not include the solicitation of sales through media other than a telephone call.

"Telemarketing sales call" means a telephone call made by a telemarketer to a customer as part of a plan, program or campaign to encourage the purchase or rental of, or investment in, merchandise, except for continuing services. A telephone call made to an existing customer for the sole purpose of collecting on accounts or following up on contractual obligations shall not be deemed a telemarketing sales call.

"Unsolicited telemarketing sales call" means any telemarketing sales call other than a call made:

(1) in response to an express written request of the customer called; or

(2) to an existing customer, which shall include the ability to collect on accounts and follow up on contractual obligations, unless the customer has stated to the telemarketer that the customer no longer desires to receive the telemarketing sales calls of the telemarketer.

L. 2003, c.76, s. 2; amended 2003, c. 208, s.1.

56:8-121. Unsolicited telemarketing calls prohibited, telemarketer registration required; fee

3. a. A person shall not make or cause to be made, or attempt to make or cause to be made, an unsolicited telemarketing sales call to a customer in the State of New Jersey unless that person is registered with or employed by a person who is registered with the Division of Consumer Affairs in the Department of Law and Public Safety in accordance with the provisions of this act.

b. Every telemarketer, including telemarketers whose residence or principal place of business is located outside of this State, shall annually register with the director. Application for registration shall be on a form provided by the director and shall include the name and address of the applicant and any other information which the director shall prescribe by rule. The application shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

L. 2003, c.76, s. 3.

56:8-122. Additional requirements for registration

4. In addition to any other procedure, condition or information required by this act:

a. Every applicant for registration shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, N.J.S.2C:5-2, N.J.S.2C:123, N.J.S.2C:15-1, N.J.S.2C:18-2, N.J.S.2C:20-4, N.J.S.2C:20-5, N.J.S.2C:20-7, N.J.S.2C:20-9, N.J.S.2C:21-1, N.J.S.2C:21-2, section 1 of P.L.1983, c.565 (C.2C:21-2.1), section 2 of P.L.1997, c.385 (C.2C:21-2.3), N.J.S.2C:21-3, N.J.S.2C:21-4, N.J.S.2C:21-5, N.J.S.2C:21-6, N.J.S.2C:21-7, N.J.S.2C:21-9 through N.J.S.2C:21-17, N.J.S.2C:21-19, or section 3 of P.L.1994, c.121 (C.2C:21-25),chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, or N.J.S.2C:30-3.

b. Each disclosure statement may be reviewed and used by the director as grounds for denying, suspending or revoking registration, except that in cases in which the provisions of P.L.1968, c.282 (C.2A:168A-1 et seq.) apply, the director shall comply with the requirements of that act.

c. An applicant whose registration is denied, suspended or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

L. 2003, c.76, s. 4.

56:8-123. Refusal to issue, renew; revocation of license

5. a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or any regulation promulgated pursuant to this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

b. The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

L. 2003, c.76, s. 5

56:8-124. Registration number to remain property of State

6. a. Any registration number issued by the director shall remain the property of the State and shall be immediately returned to the director upon its suspension, non-renewal or revocation pursuant to this act.

b. The issuance of a registration to an applicant who is a nonresident of this State shall be deemed to be the applicant's irrevocable consent that service of process in any action or proceeding may be made upon the applicant by service upon the director.

L. 2003, c.76, s. 6

56:8-125. Reporting of change in information

7. Any material change in any information filed with the director pursuant to this act shall be reported in writing to the director within 30 business days of the change.

L. 2003, c.76, s. 7

56:8-126. Maintenance of bond by registrant

8. a. The director may establish that any person required to be registered pursuant to this act maintain a bond issued by a surety authorized to transact business in this State. The principal sum of the bond shall not be less than $25,000, which amount the director may adjust by regulation. The bond shall be filed or deposited with the director for the use of any person who is damaged or suffers any loss for any violation of this act. Any person claiming against the bond may maintain an action at law against the surety or director, as the case may be. The aggregate liability of the surety or director to all persons for all breaches of the conditions of the bond held by the director shall not exceed the amount of the bond held by the director.

b. The director may also establish that any person required to be registered pursuant to this act file a copy of the bond with the director and a certificate by the surety that the surety will notify the director at least 10 days in advance of the date of any cancellation or material change in the bond.

L. 2003, c.76, s. 8

56:8-127. Establishment, maintenance of no telemarketing call list, use of national registry

9. The division shall establish and maintain a no telemarketing call list and may utilize for this purpose, in any manner the director deems appropriate, the national do-not-call registry as maintained by the Federal Trade Commission. The division may contract with a private vendor to establish and maintain the no call list, provided:

a. the private vendor meets standards established by the division by regulations that require that the vendor:

(1) is financially sound;

(2) has the capacity to perform the service required;

(3) has a record of past performance; and

(4) does not have a conflict of interest with a telemarketer or an association thereof, and

b. the contract requires the vendor to provide the list in a printed hard copy format, and

in any other format, as prescribed by the division.

L. 2003, c.76, s.9; amended 2003, c. 208, s.2

56:8-128 Requirements relative to telemarketing sales calls.

10. a. No telemarketer shall make or cause to be made any unsolicited telemarketing sales call to any customer whose telephone number is included on the no telemarketing call list established pursuant to section 9 of this act, except for a call made within three months of the date the customer's telephone number was first included on the no call list but only if the telemarketer had at the time of the call not yet obtained a no call list which included the customer's telephone number and the no call list used by the telemarketer was issued less than three months prior to the time the call was made.

b. A telemarketer making a telemarketing sales call shall, within the first 30 seconds of the call, accurately identify the telemarketer's name, the person on whose behalf the call is being made, and the purpose of the call.

c. A telemarketer shall not make or cause to be made any unsolicited telemarketing sales call to any customer between the hours of 9 p.m. and 8 a.m., local time, at the customer's location.

d. A telemarketer shall not intentionally use any method that blocks a caller identification service from displaying caller identification information or otherwise circumvents a customer's use of a telephone caller identification service, including, but not limited to, the use of any technology or method which displays a telephone number or name not associated with the telemarketer or intentionally designed to misrepresent the telemarketer's identity.

L. 2003, c.76, s.10; amended 2003, c. 208, s.3; 2005, c. 289.

56:8-129. Inclusion on list, notice to customers of existence of list, updating; directory information

11. a .A customer who desires to be included on the no telemarketing call list shall notify the division by calling a toll-free number provided or denominated by the division, or in any other manner and at a time prescribed by the division. A customer who is included on the no call list shall be removed from the no call list upon the customer's written request. The no call list shall be updated not less than quarterly and the division shall, if the no call list is not readily accessible through other means, make the no call list available to registered telemarketers for a fee that the division shall prescribe.

b. A local exchange telephone company shall include, in every telephone directory published after the effective date of this act, notice concerning the provisions of this act as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list. A local exchange telephone company shall also enclose, at least semiannually, in every telephone bill, a notice concerning the provisions of this act

as those provisions relate to the rights of customers with respect to telemarketers and the no telemarketing call list.

L. 2003, c.76, s.11; amended 2003, c. 208, s.4.

56:8-130. Prohibited practices; "commercial mobile service", "commercial mobile service device" defined

12. a. No telemarketer shall make or cause to be made any telemarketing sales call to a commercial mobile service device of any customer, except that a telemarketer that is a commercial mobile services company may call its customer using its commercial mobile services if its customer will not incur telecommunication charges or a usage allocation deduction as a result of such call and the call is directly related to the commercial mobile services of the commercial mobile services company, unless the customer has stated to the commercial mobile services company that the customer no longer desires to receive these calls.

b. For purposes of this section, "commercial mobile service" means a type of mobile telecommunications service as defined in subsection (d) of section 332 of the Communications Act of 1934 (47 U.S.C. s.332(d)); and "commercial mobile service device" means any equipment used for the purpose of providing commercial mobile service.

c. The provisions of this section shall apply to those numbers for commercial mobile service devices which the division is able to distinguish from numbers for devices for telecommunications service as defined in section 2 of P.L.1991, c.428 (C.48:2-21.17) on the 30th day following certification of such to the Governor and the Legislature.

L. 2003, c.76, s.12.

56:8-131. Construction of act

13. Nothing in this act shall be construed to restrict any right which a person may have under any other statute or at common law.

L. 2003, c.76, s.13.

56:8-132. Violations, penalties; exceptions

14. A violation of any provision of this act shall be an unlawful practice subject to the penalties applicable pursuant to section 1 of P.L.1966, c.39 (C.56:8-13) and section 2 of P.L.1999, c.129 (C.56:8-14.3), except that a person may not be held liable for violating this act if:

a. the person has obtained a copy of, and updated quarterly, the no call list and has established and implemented written policies and procedures related to the requirements of this act;

b. the person has trained telemarketers in the person's employ in the requirements of this act;

c. the person maintains records demonstrating compliance with subsections a. and b. of this section and the requirements of this act; and

d. any unsolicited telemarketing sales call is an isolated call made no more than one time in a 12-month period.

L. 2003, c.76, s.14.

56:8-133. "Consumer Protection Fund"

15. There is hereby established in the General Fund a special dedicated, non-lapsing fund to be known as the "Consumer Protection Fund," which shall be administered by the State Treasurer. The State Treasurer shall deposit into the "Consumer Protection Fund" all fees and penalties collected pursuant to this act.

The Legislature shall annually appropriate from the fund monies to the division for the payment of costs of producing and distributing educational materials and conducting educational activities relating to the promotion of the no telemarketing call list and all related costs and expenditures incurred in the administration of this act.

L. 2003, c.76, s.15.

56:8-134. Rules, regulations

16. The division, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations necessary to implement this act, which shall include, but not be limited to:

a. provisions governing the availability and distribution of the no call list established pursuant to section 9 of this act;

b. any other matters relating to the no call list established pursuant to section 9 of this act that the division deems necessary; and

c. such procedures as may be most effective to ensure that the no call list is up-to date and accurately reflects the telephone numbers of persons wishing to be on the no call list and procedures to identify telephone numbers that have been reallocated to persons other than those who have indicated that they wish to be on the no call list. Such procedures may include, but not be limited to, establishing a means of matching the no call list with the names and numbers of persons with current listings supplied by the local exchange telephone companies, or establishing a requirement for re-enrollment to the list from time to time.

L. 2003, c.76, s.16; amended 2003, c. 208, s.5.

56:8-135. Information not considered government record

17. Information submitted to the division by a customer pursuant to the provisions of this

act shall not be a government record under P.L.1963, c.73 (C.47:1A-1 et seq.) or the common law concerning access to government records except as provided in this act.

L. 2003, c.76, s.16

Contractor's Registration Act

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56:8-136 Short title.

1. This act shall be known and may be cited as the "Contractors' Registration Act."

l. 2004, c. 16, s, 1.

56:8-137 Definitions relative to home improvement contractors.

2. As used in this act:

"Contractor" means a person engaged in the business of making or selling home improvements and includes a corporation, partnership, association and any other form of business organization or entity, and its officers, representatives, agents and employees.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Home improvement" means the remodeling, altering, renovating, repairing, restoring, modernizing, moving, demolishing, or otherwise improving or modifying of the whole or any part of any residential or non-commercial property. Home improvement shall also include insulation installation, and the conversion of existing commercial structures into residential or noncommercial property.

"Home improvement contract" means an oral or written agreement for the performance of a home improvement between a contractor and an owner, tenant or lessee, of a residential or noncommercial property, and includes all agreements under which the contractor is to perform labor or render services for home improvements, or furnish materials in connection therewith.

"Residential or non-commercial property" means any single or multi-unit structure used in whole or in part as a place of residence, and all structures appurtenant thereto, and any portion of the lot or site on which the structure is situated which is devoted to the residential use of the structure.

L. 2004, c. 16, s, 2.

56:8-138 Registration for contractors; application, fee.

3. a. On or after December 31, 2005, no person shall offer to perform, or engage, or attempt to engage in the business of making or selling home improvements unless registered with the Division of Consumer Affairs in accordance with the provisions of this act.

b. Every contractor shall annually register with the director. Application for registration shall be on a form provided by the division and shall be accompanied by a reasonable fee, set by the director in an amount sufficient to defray the division's expenses incurred in administering and enforcing this act.

c. Every contractor required to register under this act shall file an amended registration within 20 days after any change in the information required to be included thereon. No fee shall be required for the filing of an amendment.

L. 2004, c. 16, s, 3; amended 2004, c. 155, s.1.

56:8-139 Act applicable to contractors who publicly advertise.

4. Except for persons exempted pursuant to section 5 of this act, any person who advertises in print or puts out any sign or card or other device on or after December 31, 2005, which would indicate to the public that he is a contractor in New Jersey, or who causes his name or business name to be included in a classified advertisement or directory in New Jersey on or after December 31, 2005, under a classification for home improvements covered by this act, is subject to the provisions of this act. This section shall not be construed to apply to simple residential alphabetical listings in standard telephone directories.

L. 2004, c. 16, s, 4; amended 2004, c. 155, s.2.

56:8-140 Inapplicability of act.

5. The provisions of this act shall not apply to:

a. Any person required to register pursuant to "The New Home Warranty and Builders' Registration Act," P.L.1977, c.467 (C.46:3B-1 et seq.);

b. Any person performing a home improvement upon a residential or noncommercial property he owns, or that is owned by a member of his family, a bona fide charity, or other non-profit organization;

c. Any person regulated by the State as an architect, professional engineer, landscape architect, land surveyor, electrical contractor, master plumber, or any other person in any other related profession requiring registration, certification, or licensure by the State, who is acting within the scope of practice of his profession;

d. Any person who is employed by a community association or cooperative corporation;

e. Any public utility as defined under R.S.48:2-13;

f. Any person licensed under the provisions of section 16 of P.L.1960, c.41 (C.17:16C-77); and

g. Any home improvement retailer with a net worth of more than $50,000,000, or employee of that retailer.

L. 2004, c. 16, s. 5.

56:8-141 Additional requirements; refusal to issue or suspend or revokeregistration; grounds.

6. In addition to any other procedure, condition or information required by this act:

a. Every applicant shall file a disclosure statement with the director stating whether the applicant has been convicted of any crime, which for the purposes of this act shall mean a violation of any of the following provisions of the "New Jersey Code of Criminal Justice," Title 2C of the New Jersey Statutes, or the equivalent under the laws of any other jurisdiction:

(1) Any crime of the first degree;

(2) Any crime which is a second or third degree crime and is a violation of chapter 20 or 21 of Title 2C of the New Jersey Statutes; or

(3) Any other crime which is a violation of N.J.S.2C:5-1, 2C:5-2, 2C:11-2 through 2C:11-4, 2C:12-1, 2C:12-3, 2C:13-1, 2C:14-2, 2C:15-1, subsection a. or b. of 2C:17-1, subsection a. or b. of 2C:17-2, 2C:18-2, 2C:20-4, 2C:20-5, 2C:20-7, 2C:20-9, 2C:21-2 through 2C:21-4, 2C:21-6, 2C:21-7, 2C:21-12, 2C:21-14, 2C:21-15, or 2C:21-19, chapter 27 or 28 of Title 2C of the New Jersey Statutes, N.J.S.2C:30-2, 2C:30-3, 2C:35-5, 2C:35-10, 2C:37-1 through 2C:37-4.

b. The director may refuse to issue or may suspend or revoke any registration issued by him upon proof that the applicant or holder of the registration:

(1) Has obtained a registration through fraud, deception or misrepresentation;

(2) Has engaged in the use or employment of dishonesty, fraud, deception, misrepresentation, false promise or false pretense;

(3) Has engaged in gross negligence, gross malpractice or gross incompetence;

(4) Has engaged in repeated acts of negligence, malpractice or incompetence;

(5) Has engaged in professional or occupational misconduct as may be determined

by the director;

(6) Has been convicted of any crime involving moral turpitude or any crime relating adversely to the activity regulated by this act. For the purpose of this subsection a plea of guilty, non vult, nolo contendere or any other such disposition of alleged criminal activity shall be deemed a conviction;

(7) Has had his authority to engage in the activity regulated by the director revoked or suspended by any other state, agency or authority for reasons consistent with this section;

(8) Has violated or failed to comply with the provisions of any act or regulation administered by the director;

(9) Is incapable, for medical or any other good cause, of discharging the functions of a licensee in a manner consistent with the public's health, safety and welfare.

c. An applicant whose registration is denied, suspended, or revoked pursuant to this section shall, upon a written request transmitted to the director within 30 calendar days of that action, be afforded an opportunity for a hearing in a manner provided for contested cases pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.).

d. An applicant shall have the continuing duty to provide any assistance or information requested by the director, and to cooperate in any inquiry, investigation, or hearing conducted by the director.

e. If any of the information required to be included in the disclosure statement changes, or if additional information should be added after the filing of the statement, the applicant shall provide that information to the director, in writing, within 30 calendar days of the change or addition.

f. Notwithstanding the provisions of paragraph (6) of subsection b. of this section, no individual shall be disqualified from registration or shall have registration revoked on the basis of any conviction disclosed if the individual has affirmatively demonstrated to the director clear and convincing evidence of the individual's rehabilitation. In determining whether an individual has affirmatively demonstrated rehabilitation, the following factors shall be considered:

(1) The nature and responsibility of the position which the convicted individual would hold;

(2) The nature and seriousness of the offense;

(3) The circumstances under which the offense occurred;

(4) The date of the offense;

(5) The age of the individual when the offense was committed;

(6) Whether the offense was an isolated or repeated incident;

(7) Any social conditions which may have contributed to the offense; and

(8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision.

L. 2004, c. 16, S. 6

56:8-142 Proof of commercial general liability insurance; requirements.

7. a. On or after December 31, 2005, every registered contractor who is engaged in home improvements shall secure, maintain and file with the director proof of a certificate of commercial general liability insurance in a minimum amount of $500,000 per occurrence.

b. Every registered contractor engaged in home improvements whose commercial general liability insurance policy is cancelled or nonrenewed shall submit to the director a copy of the certificate of commercial general liability insurance for a new or replacement policy which meets the requirements of subsection a. of this section before the former policy is no longer effective.

L. 2004, c. 16, S. 7; amended 2004, c. 155, s.3.

56:8-143 Refusal to issue, renew, revocation, suspension of registration; procedures.

8. a. The director may refuse to issue or renew, and may revoke, any registration for failure to comply with, or violation of, the provisions of this act or for any other good cause shown within the meaning and purpose of this act. A refusal or revocation shall not be made except upon reasonable notice to, and opportunity to be heard by, the applicant or registrant.

b. The director, in lieu of revoking a registration, may suspend the registration for a reasonable period of time, or assess a penalty in lieu of suspension, or both, and may issue a new registration, notwithstanding the revocation of a prior registration, if the applicant is found to have become entitled to the new registration.

L. 2004, c. 16, S. 8.

56:8-144 Display of registration number; requirements.

9. a. All registrants shall prominently display their registration numbers within their

places of business, in all advertisements distributed within this State, on business documents, contracts and correspondence with consumers of home improvement services in this State, and on all commercial vehicles registered in this State and leased or owned by registrants and used by registrants for the purpose of providing home improvements, except for vehicles leased or rented to customers of registrants by a registrant or any agent or representative thereof.

b. Any invoice, contract or correspondence given by a registrant to a consumer shall prominently contain the toll-free telephone number provided pursuant to section 14 of this act.

L. 2004, c. 16, S. 9

56:8-145 Applicability of act to out-of-State contractors.

10. The provisions of this act shall apply to any person engaging in any of the activities regulated by this act in this State, including persons whose residence or principal place of business is located outside of this State.

L. 2004, c. 16, S. 10.

56:8-146 Violations, fourth degree crime.

11.a. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any provision of this act.

b. In addition to any other penalty provided by law, a person who knowingly violates any of the provisions of this act is guilty of a crime of the fourth degree.

L. 2004, c. 16, S. 11.

56:8-147 Supersedure of municipal ordinance, regulation.

12. a. This act shall supersede any municipal ordinance or regulation that provides for the licensing or registration of contractors or for the protection of homeowners by bonds or warranties required to be provided by contractors, exclusive of those required by water, sewer, utility, or land use ordinances or regulations.

b. No municipality shall issue a construction permit for any home improvement to any contractor who is not registered pursuant to the provisions of this act.

L. 2004, c. 16, S. 12.

56:8-148 Municipal powers preserved.

13. This act shall not deny to any municipality the power to inspect a contractor's work or equipment, the work of a contractor who performs improvements to commercial property, or the power to regulate the standards and manners in which the contractor's work shall be done.

L. 2004, c. 16, S. 13.

56:8-149 Public information campaign, toll free number.

14. a. The director shall establish and undertake a public information campaign to educate and inform contractors and the consumers of this State of the provisions of this act. The public information campaign shall include, but not be limited to, the preparation, printing and distribution of booklets, pamphlets or other written pertinent information.

b. The director shall provide a toll-free telephone number for consumers making inquiries regarding contractors.

L. 2004, c. 16, S. 14.

56:8-150 Applicability of C.56:8-1 et seq.

15. Nothing in this act shall limit the application of P.L.1960, c.39 (C.56:8-1 et seq.), or any regulations promulgated thereunder, in regard to the registration or regulation of contractors.

L. 2004, c. 16, S. 15.

56:8-151 Contracts, certain, required to be in writing; contents.

16. a. On or after December 31, 2005, every home improvement contract for a purchase price in excess of $500, and all changes in the terms and conditions of the contract, shall be in writing. The contract shall be signed by all parties thereto, and shall clearly and accurately set forth in legible form and in understandable language all terms and conditions of the contract, including but not limited to:

(1) The legal name, business address, and registration number of the contractor;

(2) A copy of the certificate of commercial general liability insurance required of a contractor pursuant to section 7 of this act and the telephone number of the insurance company issuing the certificate; and

(3) The total price or other consideration to be paid by the owner, including the finance charges.

b. On or after December 31, 2005, a home improvement contract may be cancelled by a consumer for any reason at any time before midnight of the third business day after the consumer receives a copy of it. In order to cancel a contract the consumer shall notify the contractor of the cancellation in writing, by registered or certified mail, return receipt requested, or by personal delivery, to the address specified in the contract. All moneys paid pursuant to the cancelled contract shall be fully refunded within 30 days of receipt of the notice of cancellation. If the consumer has executed any credit or loan agreement through the contractor to pay all or part of the contract, the agreement or note shall be cancelled without penalty to the consumer and written notice of that cancellation shall be mailed to the consumer within 30 days of receipt of the notice of cancellation. The

contract shall contain a conspicuous notice printed in at least 10-point bold-faced type as follows:

“NOTICE TO CONSUMER

YOU MAY CANCEL THIS CONTRACT AT ANY TIME BEFORE MIDNIGHT OF THE THIRD BUSINESS DAY AFTER RECEIVING A COPY OF THIS CONTRACT. IF YOU WISH TO CANCEL THIS CONTRACT, YOU MUST EITHER:

1 SEND A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION BY REGISTERED OR CERTIFIED MAIL, RETURN RECEIPT REQUESTED; OR

2 PERSONALLY DELIVER A SIGNED AND DATED WRITTEN NOTICE OF CANCELLATION TO:

(Name of Contractor)

(Address of Contractor)

(Phone Number of Contractor)

If you cancel this contract within the three-day period, you are entitled to a full refund of your money. Refunds must be made within 30 days of the contractor's receipt of the cancellation notice."

L. 2004, c. 16, S. 16; amended 2004, c. 155, s. 4.

56:8-152 Rules, regulations.

17. The director, pursuant to the provisions of the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

L. 2004, c. 16, S. 17.

Unsolicited credit cards, checks

56:8-153 Definitions relative to unsolicited credit cards, checks.

1. As used in this act:

"Check" means a demand draft drawn on or payable through an office of a depository institution located in the United States that has imprinted on it the account holder's name and the depository institution's name, location and routing number.

"Credit card" means any card, plate, coupon book, or other single credit device that may be used from time to time to obtain credit.

"Unsolicited check" means any check mailed or otherwise delivered to a person for the purpose of drawing on an existing account that is an extension of credit or activating an account to obtain credit other than:

(1) in response to a request or application for a check or account; or

(2) as a substitute for a check or account previously issued to the person to whom the check is mailed or otherwise delivered.

"Unsolicited credit card" means any credit card mailed or otherwise delivered to a person other than:

(1) in response to a request or application for a credit card; or

(2) as a renewal or substitute for a credit card previously issued to the person to whom the credit card is mailed or otherwise delivered.

L. 2004, c. 159, s. 1. eff. Feb. 1, 2005

56:8-154 Delivery of unsolicited credit card, unlawful practice.

2. It shall be an unlawful practice for any person to mail or otherwise deliver an unsolicited credit card to a person in this State.

L. 2004, c. 159, s. 2. eff. Feb. 1, 2005

56:8-155 Unsolicited credit card, unaccepted, immunity from liability for use.

3. No person in whose name an unsolicited credit card is issued shall be liable for any amount resulting from use of that card, from which that person or a member of that person's family or household derives no benefit, unless the person has accepted the card by activating the card or using the card, or by authorizing use of the card by another person. Failure to destroy or return an unsolicited credit card shall not constitute acceptance of the card.

L. 2004, c. 159, s. 3. eff. Feb. 1, 2005

56:8-156 Unsolicited check, unaccepted, immunity from liability for use.

4. No person in whose name an unsolicited check is issued shall be liable for any amount resulting from use of that check or account, unless the person who is the holder of the account upon which the check is to be drawn, or who is the payee on the check, as the case may be, has accepted the check or account by using the check or account. Failure to destroy or return an unsolicited check shall not constitute acceptance of the check or account.

L. 2004, c. 159, s. 4 eff. Feb. 1, 2005

Unsolicited faxes

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56:8-157 Definitions relative to certain unsolicited advertisements over telephone lines.

1. As used in this act:

"Existing business relationship" means a relationship formed by a voluntary two-way communication between a person or entity and a residential or business subscriber with or without an exchange of consideration, on the basis of an inquiry, application, purchase, membership or transaction by the residential or business subscriber regarding products or services offered by such person or entity.

"Nonprofit organization" means a nonprofit organization that is exempt from federal taxation pursuant to Section 501(c)(3) of the federal Internal Revenue Code (26 U.S.C. s. 501(c)(3)) or section 501(c)(6) of the federal Internal Revenue Code (26 U.S.C. s.501(c)(6)).

"Telephone facsimile machine" means equipment which has the capacity to transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line or to transcribe text or images, or both, from an electronic signal received over a regular telephone line onto paper.

"Unsolicited advertisement" means any material advertising the commercial availability or quality of any property, goods, or services which is transmitted to any person without that person's prior express invitation or permission.

L. 2005, c. 114, s. 1. eff. Dec. 2005

56:8-158 Sending unsolicited advertisement to telephone facsimile machine prohibited, exceptions.

2. a. A person within this State shall not use any telephone facsimile machine, computer or other device to send an unsolicited advertisement to a telephone facsimile machine within this State. This subsection shall not be construed to cover the actions of an internet service provider or telecommunications service provider in the transmission, routing, relaying, handling, or storing of the facsimile through an automatic technical process.

b. Subsection a. of this section shall not apply where there is an existing business relationship between the sender of the unsolicited advertisement and the residential or business subscriber or where a member of a non profit organization including, but not limited to, professional or trade associations, sends an unsolicited advertisements to a member of the same organization, directly and not through a centralized facsimile database or facsimile number list maintained by the organization, provided that such unsolicited advertisement, whether sent pursuant to an existing business relationship between the sender and the residential or business subscriber or whether sent from one

member of a non profit organization to another member of the same organization, shall provide clear and conspicuous notice on the first page of the unsolicited advertisement. Such notice shall include:

(1) disclosure to the recipient that the recipient may request the sender of the unsolicited advertisement not to send any future unsolicited advertisements to the recipient's telephone facsimile machine; and

(2) the domestic address and facsimile machine number for the recipient to transmit such a request to the sender.

c. A request not to send future unsolicited advertisements to a telephone facsimile machine shall:

(1) identify the telephone number of the telephone facsimile machine to which the request relates;

(2) be made to the sender's domestic address or the facsimile machine number of the sender provided in the notice to the recipient; and

(3) be sent in written form to the sender's domestic address or sent by return facsimile transmission to the sender's facsimile machine number, in order to be effective.

Such request is effective unless subsequently the person making the request provides express invitation or permission to the sender, in written form or by facsimile transmission, to send future unsolicited advertisements to such person at such telephone facsimile machine.

d. Failure to honor a valid request, in written form or by facsimile transmission, not to send future unsolicited advertisements pursuant to subsections c. through g. of this section, as applicable, shall constitute a violation of P. L. 2005, c.114 (C. 56: 8-157 et seq.)

e. Nonprofit organizations, including but not limited to, professional or trade associations, shall be exempt from subsection a. of this section and shall be allowed to send unsolicited advertisements to their new and existing members in furtherance of the organization's purpose, without penalty, provided that the organization provides to each of its prospective new members at the time of membership application or to each of its existing members at the time of membership renewal, as the case may be, clear and conspicuous notice of:

(1) the member's right to request the organization not to send any future unsolicited advertisements to the member's telephone facsimile machine;

(2) the organization's domestic address and facsimile machine number to which

its members may transmit such a request to the organization; and

(3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a member to a nonprofit organization not to send future unsolicited advertisements to a member's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of a nonprofit organization to honor a valid request, in written form or by facsimile transmission, from a member not to send future unsolicited advertisements pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of P. L. 2005, c.114 (C. 56: 8-157 et seq.

f. Members of nonprofit organizations, including but not limited to, professional or trade associations, who send unsolicited advertisements to the telephone facsimile machines of other members of the same organization by initially sending such advertisements to a centralized facsimile database or facsimile number list maintained by the organization for the purpose of distributing such advertisements to its membership shall be exempt from subsection a. of this section and shall be allowed to send such unsolicited advertisements trough such centralized facsimile data base or facsimile number list to other members of the same organization, without penalty, provided that the organization provides to each of its prospective new members at the time of membership application or to each of its existing members at the time of membership renewal, as the case may be, clear and conspicuous notice of:

(1) the member's right to request that the organization not send any future unsolicited advertisements from one or more other member of the same organization through centralized facsimile database or facsimile list to the member's telephone facsimile machine;

(2) the organization's domestic address and facsimile machine number to which its members may transmit such a request to the organization; and

(3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a member to a nonprofit organization that the organization not send any future unsolicited advertisements from one or more other members of the same organization through such centralized facsimile database or facsimile number list to a member's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of the nonprofit organization to honor a valid request, in written form or by facsimile transmission, from a member of the same organization not to send any future

unsolicited advertisements from one or more other members through such centralized facsimile database or facsimile number list pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of P. L. 2005, c.114 (C. 56:8-157 et seq.)

g. Nonprofit organizations, including but not limited to, professional or trade associations, shall be exempt from subsection a. of this section and shall be allowed to send unsolicited advertisements to the telephone facsimile machine of any person, other than a new or existing member of the sending organization, within this State, without penalty, provided that such advertisements are intended to give the person notice of an event that is in furtherance of the organization's purpose, and further provided that, any such unsolicited advertisements to the person's telephone facsimile machine shall provide clear and conspicuous notice on the first page of the unsolicited advertisement. Such notice shall include:

(1) disclosure to the person that the person may request the organization not to send any such future unsolicited advertisements to the person's telephone facsimile machine; and

(2) the domestic address and facsimile machine number for the person to transmit such a request to the organization; and

(3) the requirement that any such request to the organization shall be sent in written form to the organization's domestic address or sent by return facsimile transmission to the organization's facsimile number, in order to be effective.

A request by a person to a nonprofit organization that the organization not send future unsolicited advertisements to the person's telephone facsimile machine shall comply with the requirements of this subsection and with the requirements of subsection c. of this section, as applicable. Failure of a nonprofit organization to honor a valid request, in written form or by facsimile transmission, from a person not to send future unsolicited advertisements pursuant to the requirements of this subsection and the requirements of subsection c. of this section, as applicable, shall constitute a violation of P. L. 2005, c.114 (C. 56: 8-157 et seq.)

L. 2005, c. 114, s. 2; amended 2007, c. 85

56:8-159 Action by aggrieved person.

3. a. Any person aggrieved by a violation of this act may bring an action in the Superior Court in the county where the transmission was sent or was received, or in which the plaintiff resides, for damages or to enjoin further violations of this act.

b. The court shall proceed in a summary manner and shall, in the event the plaintiff establishes a violation of this act, enter a judgment for the actual damages sustained, or $500 for each violation, whichever amount is greater, together with costs of suit and reasonable attorney's fees.

c. If the plaintiff establishes that the sender was notified by return facsimile or written means of communication to cease and desist transmission of such unsolicited advertisements, the court shall enter a judgment, on account of each subsequent transmission, for actual damages or $1,000 for each transmission, whichever amount is greater, together with costs of suit and reasonable attorney's fees, not to exceed $1,000.

L. 2005, c. 114, s. 3.

56:8-160 Violation constitutes unlawful practice.

4. A violation of this act shall constitute an unlawful practice pursuant to P.L. 1960, c. 39 (C.56:8-1 et seq.) and shall be subject to all remedies and penalties available pursuant to P.L. 1960, c. 39 (C. 56:8-1 et seq.), in addition to the remedies provided to an aggrieved person by section 3 of this act.

L. 2005, c. 114, s. 4. eff. Dec. 1. 2005

Disclosure of personal information

56:8-161 Definitions relative to security of personal information.

10. As used in sections 10 through 15 of this amendatory and supplementary act:

"Breach of security" means unauthorized access to electronic files, media or data containing personal information that compromises the security, confidentiality or integrity of personal information when access to the personal information has not been secured by encryption or by any other method or technology that renders the personal information unreadable or unusable. Good faith acquisition of personal information by an employee or agent of the business for a legitimate business purpose is not a breach of security, provided that the personal information is not used for a purpose unrelated to the business or subject to further unauthorized disclosure.

"Business" means a sole proprietorship, partnership, corporation, association, or other entity, however organized and whether or not organized to operate at a profit, including a financial institution organized, chartered, or holding a license or authorization certificate under the law of this State, any other state, the United States, or of any other country, or the parent or the subsidiary of a financial institution.

"Communicate" means to send a written or other tangible record or to transmit a record by any means agreed upon by the persons sending and receiving the record.

"Customer" means an individual who provides personal information to a business.

"Individual" means a natural person.

"Internet" means the international computer network of both federal and non-

federal interoperable packet switched data networks.

"Personal information" means an individual's first name or first initial and last name linked with any one or more of the following data elements: (1) Social Security number; (2) driver's license number or State identification card number; or (3) account number or credit or debit card number, in combination with any required security code, access code, or password that would permit access to an individual's financial account. Dissociated data that, if linked, would constitute personal information is personal information if the means to link the dissociated data were accessed in connection with access to the dissociated data.

For the purposes of sections 10 through 15 of this amendatory and supplementary act, personal information shall not include publicly available information that is lawfully made available to the general public from federal, state or local government records, or widely distributed media.

"Private entity" means any individual, corporation, company, partnership, firm, association, or other entity, other than a public entity.

"Public entity" includes the State, and any county, municipality, district, public authority, public agency, and any other political subdivision or public body in the State. For the purposes of sections 10 through 15 of this amendatory and supplementary act, public entity does not include the federal government.

"Publicly post" or "publicly display" means to intentionally communicate or otherwise make available to the general public.

"Records" means any material, regardless of the physical form, on which information is recorded or preserved by any means, including written or spoken words, graphically depicted, printed, or electromagnetically transmitted. Records does not include publicly available directories containing information an individual has voluntarily consented to have publicly disseminated or listed.

L. 2005, c. 226, s. 10. eff. Jan. 1 2006

56:8-162 Methods of destruction of certain customer records.

11. A business or public entity shall destroy, or arrange for the destruction of, a customer's records within its custody or control containing personal information, which is no longer to be retained by the business or public entity, by shredding, erasing, or otherwise modifying the personal information in those records to make it unreadable, undecipherable or nonreconstructable through generally available means.

L. 2005, c. 226, s. 11. eff. Jan. 1 2006

56:8-163 Disclosure of breach of security to customers.

12. a. Any business that conducts business in New Jersey, or any public entity that

compiles or maintains computerized records that include personal information, shall disclose any breach of security of those computerized records following discovery or notification of the breach to any customer who is a resident of New Jersey whose personal information was, or is reasonably believed to have been, accessed by an unauthorized person. The disclosure to a customer shall be made in the most expedient time possible and without unreasonable delay, consistent with the legitimate needs of law enforcement, as provided in subsection c. of this section, or any measures necessary to determine the scope of the breach and restore the reasonable integrity of the data system. Disclosure of a breach of security to a customer shall not be required under this section if the business or public entity establishes that misuse of the information is not reasonably possible. Any determination shall be documented in writing and retained for five years.

b. Any business or public entity that compiles or maintains computerized records that include personal information on behalf of another business or public entity shall notify that business or public entity, who shall notify its New Jersey customers, as provided in subsection a. of this section, of any breach of security of the computerized records immediately following discovery, if the personal information was, or is reasonably believed to have been, accessed by an unauthorized person.

c. (1) Any business or public entity required under this section to disclose a breach of security of a customer's personal information shall, in advance of the disclosure to the customer, report the breach of security and any information pertaining to the breach to the Division of State Police in the Department of Law and Public Safety for investigation or handling, which may include dissemination or referral to other appropriate law enforcement entities.

(2) The notification required by this section shall be delayed if a law enforcement agency determines that the notification will impede a criminal or civil investigation and that agency has made a request that the notification be delayed. The notification required by this section shall be made after the law enforcement agency determines that its disclosure will not compromise the investigation and notifies that business or public entity.

d. For purposes of this section, notice may be provided by one of the following methods:

(1) Written notice;

(2) Electronic notice, if the notice provided is consistent with the provisions regarding electronic records and signatures set forth in section 101 of the federal "Electronic Signatures in Global and National Commerce Act" (15 U.S.C. s.7001); or

(3) Substitute notice, if the business or public entity demonstrates that the cost of

providing notice would exceed $250,000, or that the affected class of subject persons to be notified exceeds 500,000, or the business or public entity does not have sufficient contact information. Substitute notice shall consist of all of the following:

(a) E-mail notice when the business or public entity has an e-mail address;

(b) Conspicuous posting of the notice on the Internet web site page of the business or public entity, if the business or public entity maintains one; and

(c) Notification to major Statewide media.

e. Notwithstanding subsection d. of this section, a business or public entity that maintains its own notification procedures as part of an information security policy for the treatment of personal information, and is otherwise consistent with the requirements of this section, shall be deemed to be in compliance with the notification requirements of this section if the business or public entity notifies subject customers in accordance with its policies in the event of a breach of security of the system.

f. In addition to any other disclosure or notification required under this section, in the event that a business or public entity discovers circumstances requiring notification pursuant to this section of more than 1,000 persons at one time, the business or public entity shall also notify, without unreasonable delay, all consumer reporting agencies that compile or maintain files on consumers on a nationwide basis, as defined by subsection (p) of section 603 of the federal "Fair Credit Reporting Act" (15 U.S.C. s.1681a), of the timing, distribution and content of the notices.

L. 2005, c. 226, s. 12. eff. Jan. 1 2006

56:8-164 Prohibited actions relative to display of Social Security numbers.

13. a. No person, including any public or private entity, shall:

(1) Publicly post or publicly display an individual's Social Security number or any four or more consecutive numbers taken from the individual's Social Security number;

(2) Print an individual's Social Security number on any materials that are mailed to the individual, unless State or federal law requires the Social Security number to be on the document to be mailed;

(3) Print an individual's Social Security number on any card required for the individual to access products or services provided by the entity;

(4) Intentionally communicate or otherwise make available to the general public an individual's Social Security number;

(5) Require an individual to transmit his Social Security number over the Internet, unless the connection is secure or the Social Security number is encrypted; or

(6) Require an individual to use his Social Security number to access an Internet web site, unless a password or unique personal identification number or other authentication device is also required to access the Internet web site.

b. Nothing in this section shall prevent a public or private entity from using a Social Security number for internal verification and administrative purposes, so long as the use does not require the release of the Social Security number to persons not designated by the entity to perform associated functions allowed or authorized by law.

c. Nothing in this section shall prevent the collection, use or release of a Social Security number, as required by State or federal law.

d. Notwithstanding this section, Social Security numbers may be included in applications and forms sent by mail, including documents sent as part of an application or enrollment process, or to establish, amend or terminate an account, contract or policy, or to confirm the accuracy of the Social Security number. A Social Security number that is permitted to be mailed under this subsection may not be printed, in whole or in part, on a postcard or other mailer not requiring an envelope, or visible on the envelope or without the envelope having been open.

e. Nothing in this section shall apply to documents that are recorded or required to be open to the public pursuant to Title 47 of the Revised Statutes. This section shall not apply to records that are required by statute, case law, or New Jersey Court Rules, to be made available to the public by entities provided for in Article VI of the New Jersey Constitution.

f. Nothing in this section shall apply to the interactive computer service provider's transmissions or routing or intermediate temporary storage or caching of an image, information or data that is otherwise subject to this section.

L. 2005, c. 226, s. 13. eff. Jan. 1 2006

56:8-165 Regulations concerning security of personal information.

14. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety, in consultation with the Commissioner of Banking and Insurance, shall promulgate regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate sections 4 through 15 of this amendatory and supplementary act.

L. 2005, c. 226, s. 14. eff. Jan. 1 2006

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56:8-166 Unlawful practice, violation.

15. It shall be an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to willfully, knowingly or recklessly violate sections 10 through 13 of this amendatory and supplementary act.

L. 2005, c. 226, s. 15. eff. Jan. 1 2006

56:8-167 Sale, offer of vehicle protection product by unregistered warrantor, person deemed unlawful practice.

4. a. It shall be unlawful practice for a person to sell, or offer for sale, a vehicle protection product with a warranty issued by a warrantor that is not registered pursuant to P.L. 2007, c. 166 (C.17:18-19 et al.)

b. It shall be unlawful practice for a person who is not registered pursuant to section 3 of P.L. 2007, c. 166(C.17:18-21) to offer or issue a vehicle protection product warranty.

L. 2007, c. 166, s. 4. eff. April 1, 2008

Internet Dating Safety Act

56:8-168. Short title; Internet Dating Safety Act

This act shall be known and may be cited as the "Internet Dating Safety Act"

L.2007, c. 272, s1. eff. May 12, 2008

56:8-169. Legislative funding and definitions; risk of participating in internet dating services

The legislature finds and declares:

a. Residents of this State need to be informed of the potential risks of participating in Internet dating services. There is a public safety need to disclose whether criminal history background screenings have been performed and to increase public awareness of the possible risks associated with Internet dating activities. The primary purpose of this act is to enhance the safety of individuals who use the Internet service to facilitate dating.

b. The offer of Internet dating services to residents of this State, and the acceptance of membership fees from residents of this State means that an Internet dating service is conducting business in this State and is subject to regulation by this State and the jurisdiction of the State's courts.

L. 2007, c. 272, s2, eff. May 12, 2008

56:8-170. Definitions

As use in this act:

a. "Criminal background screening" means a name search for a person's criminal convictions initiated by an on-line dating service provider and conducted by one of the following means:

(1) By searching available and regularly updated government public record databases for criminal convictions so long as such databases, in the aggregate, provide substantial

national coverage; or
(2) By searching a database maintained by a private vendor that is regularly updated and maintained in the United States with substantial national coverage of criminal history records and sexual offender registries.

b. “Director” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

c. ”Division” means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety

d. “Internet dating service” means a person or entity directly or indirectly in the business, for profit, of offering, promoting or providing access to dating, relationship, compatibility, matrimonial or social referral services principally on or through the Internet

e. “Internet service provider” means any person, business or organization qualified to do business in this State that provides individuals, corporations, or other entities with the ability to connect to the Internet through equipment that is located in this State.

f. “Member” means a customer, client or participant who submits to an Internet dating service information required to access the service for the purpose of engaging in dating, relationship, compatibility, matrimonial or social referral.

g. “New Jersey member” means a member who provides a New Jersey billing address or zip code when registering with the service.

h. “Criminal conviction” means a conviction for any crime including but not limited to any sex offense that would qualify the offender for registration pursuant to section 2 of P.L. 1994, c.133 (C. 2C:7-2) or under another jurisdiction’s equivalent statute.

L. 2007, c. 272, s3 eff. May 12, 2008

56:8-171. Requirements for dating service providers
An Internet dating service offering services to New Jersey members shall:
a. Provide safety awareness notification that includes, at minimum, a list and description of safety measures reasonably designed to increase awareness of safer dating practices as determined by the service. Examples of such notification include:

(1) “Anyone who is able to commit identity theft can also falsify a dating profile”

(2) “There is not substitute for acting with caution when communicating with any stranger who wants to meet you”

(3) “Never include your last name, e-mail address, home address, phone number, place of work, or any other identifying information in your Internet profile or initial e-mail messages. Stop communicating with anyone who pressures you for personal or financial information or attempts in any way to trick you into revealing it”

(4) “If you choose to have a face-to-face meeting with another member, always tell someone in your family or a friend where you are going and when you will return. Never agree to be picked up at your home. Always provide your own transportation to and from your date and meet in a public place with many people around”

b. If an Internet dating service does not conduct criminal background screenings on its members, the service shall disclose, clearly and conspicuously, to all New Jersey members that the Internet dating service does not conduct criminal background screenings. The disclosure shall be provided in two or more of the following forms: when an electronic mail message is sent or received by a New Jersey member. In a “click-through” or other similar presentation requiring a member from this State to acknowledge that they have received the information required by this act, on the profile describing a member to a New Jersey member, and on the web-site pages or homepage of the Internet dating service used when a New Jersey member signs up. A disclosure under this subsection shall be in bold, capital letters in at least 12-point type.

c. If an Internet dating service conducts criminal background screenings on all of its communicating members, then the service shall disclose, clearly and conspicuously, to all New Jersey members that the Internet dating service conducts a criminal background screening on each member prior to permitting a New jersey member to communicate with another member. The disclosure shall be provided on the website pages used when a New Jersey member signs up. A disclosure under this subsection shall be in bold capital letters in at least 12-point type.

d. If an Internet dating service conducts criminal background screenings, then the service shall disclose whether it has a policy allowing a member who has been identified as having a criminal conviction to have access to its service to communicate with any New Jersey member; shall state that criminal background screening are not foolproof; that they may give members a false sense of security; that they are not perfect safety solution; that criminals may circumvent even the most sophisticated search technology; that not all criminal records are public in all states and not all databases are up to date; that only publicly available convictions are included in the screening; and that screenings do not cover other types of convictions or arrests or any convictions from foreign countries.

L. 2007, c. 272, s.4 eff. May 12, 2008

56:8-172. Violation of law deemed an unlawful practice
It shall be an unlawful practice and a violation of P. L. 1960, c. 39 (C.56:8-1 et seq.) for an Internet dating service to fail to provide notice or falsely indicate that it has performed criminal background screenings in accordance with this act.

L. 2007, c. 272, s. 5 eff. May 12, 2008

56:8-173. Transmission-of-electronic messages exception
An Internet service provider does not violate this act solely as a result of serving as an intermediary for the transmission of electronic message between members of an Internet

dating service.

L. 2007, c. 272, s. 6 eff. May 12, 2008

56:8-174. Rules, regulations; purpose
The director in consultation with the Attorney General and pursuant to the "Administrative Procedure Act", P.L. 1968, c. 140 (C. 52:14B-1 et seq.), shall adopt rules and regulations to effectuate the purposes of this act.

L. 2007, c. 272, s. 7 eff. May 12, 2008

Prepaid telephone calling cards

56:8-175. Definitions relative to prepaid telephone calling cards and services
As used in this act:
"Advertisement" means the attempt, directly or indirectly by publication, dissemination, association, endorsement or circulation or in any other way, to induce directly or indirectly any person to purchase any prepaid calling card or service, appearing in any newspaper, magazine, periodical, circular, in-store or out-of-store sign or other written matter placed before the consuming public, or any radio broadcast, television broadcast, electronic medium or delivered to or through any computer.

"Company" means any entity, corporation, company, association, firm, partnership or other business entity or individual engaged in the business of a prepaid calling service provider or prepaid calling card distributor in this State.

"Director' means the Director of the Division of Consumer Affairs

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Government fees" means and includes any and all the fees, taxes and charges assessed pursuant to State or federal law, regulation or other mandate or requirement, including universal service fees and charges.

"Payphone surcharge" means the surcharge that a provider may charge a customer when that customer places a call with a card from a payphone using a toll-free access number. The payphone surcharge shall be deducted from a card's balance.

"Permitted fee" means the fees and surcharges that a provider may charge to, or deduct from, a card's balance for the use of that card, in addition to, the rate per minute to the particular destination called, which includes and is limited to any government fees.

"Prepaid calling card" or "card" means any right of use purchased for a sum certain that

contains an access number and authorization code that enables a consumer to use a prepaid calling service. Such rights of use may be embodied on a card or other physical object or may be purchased by an electronic or telephonic means through which the purchaser obtains access numbers and authorization codes that are not physically located on a card or other object. “Prepaid calling card” shall not be construed to include cards or other rights of use that provide access to:
(1) telecommunications service if the card or other rights of use and telecommunications service are provided:

a. for a fee or at no additional charge as a promotional item accompanying a product or service are provided

b. pursuant to an awards, loyalty, rebate or promotional program without any separate monetary consideration being given by the customer solely in exchange therefor; or
(2) a wireless telecommunications service account if the purchaser has a pre-existing relationship via the purchase of the object.

“Prepaid calling card distributor “ or “distributor” means and includes : (1) any company that purchases or receives prepaid calling cards from a prepaid calling service provider or distributor and sells or distributes those cards to one or more distributors of prepaid calling cards or to one or more prepaid calling card retailers; and (2) any company that otherwise actively engages in the promotion, advertising or dissemination of prepaid calling cards and which is not a provider. “Prepaid calling card distributor shall not include any prepaid calling card retailers engaged exclusively in point-of-sale transaction with customers.

“Prepaid calling card retailer” means any company that sells of offer to sell prepaid calling cards directly to customers.

“Prepaid calling service” or “service” means any company, providing prepaid calling service to the public using its own, or a resold telecommunications network, or voice over Internet technology.

“Toll free number” means an 800 number, or other telephone number widely understood to be toll-free, which, when called the destination number or as an access number, shall not result in the calling party being assessed, by the virtue of completing the call, any fee, charge or higher rate for the call unless such a fee, charge or higher rate is disclosed pursuant to subsection a. of section 2 of this act.

L. 2007, c. 293, s.1, eff. Aug. 1, 2008.

56:8-176. Prepaid calling cards and services; disclosure requirements restrictions or additional charges on fees; customer service assistance
a. Prepaid calling service providers and prepaid calling cards distributors shall disclose the following information on cards or their packaging, as prescribed by the director by regulation, and in any advertising for the service or cards, including any Internet web

site used to promote or distribute the service or cards:
(1) The name of the prepaid calling service;

(2) The provider's 24 hour customer service provider;

(3) The amount and frequency of any permitted fee that may be applicable to the use of the card or service for calls originating within the United States;

(4) Notice that additional or different per minute rates, charges or fees may apply to use of the card or the service for calls to or from international telephone numbers, international cellular and international wireless telephone numbers;

(5) Notice that per minute rates may be higher for calls made via toll-free numbers;

(6) The value of the card or service, in dollars or minutes;

(7) Any applicable policies relating to refund, recharge, decrement and expiration and

(8) such additional information as the director may prescribe by regulation, including but not limited to, information concerning the notice and disclosure of any rates, charges or fees for the use of the card or the services for calls.

b. Prepaid calling service providers and prepaid calling card distributor shall make available through the customer service number, a website or other electronic medium packaging, if any, or in clear and conspicuous poster or other writing in plain language at the point of sale such information as the director may prescribe by regulation.

c. All minutes or rates, or both; promoted or advertised on any prepaid calling card, any point of sale material relating to that card or otherwise relating to any prepaid calling service, shall be available and achievable by the customer, and there shall be no limitations on the period of time for which the promoted or advertised minutes or rates, or both, will be available to the customer unless those limitations are clearly and conspicuously disclosed in the same location on the card, advertising or point of sale material where the minutes or rates, or both, are promoted or advertised. All minutes promoted, advertised or disclosed on any voice prompt given to a customer at the time the customer places a call with the card, whether or not required by regulation to be given to the customer, shall be immediately available and achievable by the customer on that call. The customer shall not be charged for any busy signal or unanswered call.

d. A provider may not charge, apply or deduct from a card's balance any fees, taxes, surcharges or other amounts for use of the card, except: (1) the rate per minute for the particular destination called; (2) any permitted fees; and (3) any rate per minute, fee or charge permitted pursuant to paragraphs (4) or (5) of subsection a. of this section.

f. In the case of a prepaid calling service provider, the company's 24 hour customer service telephone number shall enable the customer to obtain, at not charge, any and all applicable information regarding the rates, any permitted fees, charges and minutes

available and remaining on the card for use in a single, uninterrupted call to a single, requested destination through the card and prepaid calling service. Customer service may be provided by a combination of a live operator, interactive voice response, and electronic voice recording of customer inquiries and complaints, but live operator service shall be available 24 hours a day, seven days a week. If an electronic voice recorder is used, the provider shall attempt to contact the customer no later than the next day following the date of the recording.

g. Providers and distributors shall conspicuously display the applicable access numbers for the use of the card on the body of the card itself or on its packaging.

h. A company shall not impose any fee or surcharge that is not disclosed as required by this section or that exceeds the amount disclosed by the company.

L. 2007, c. 293, s.2, eff. Aug. 1, 2008.

56:8-177. Prohibition upon sale of prepaid minutes at less than face value

Prepaid calling card retailers shall not sell or offer for sell any prepaid calling card that the retailer knows provides fewer minutes than the number of minutes than the number of minutes promoted or advertised for the card, including the number of minutes listed on the card, any advertising or point of sale material related to the card or any voice prompt indicating the number of minutes available for a call with the card.

L. 2007, c. 293, s.3, eff. Aug. 1, 2008.

56:8-178. Violations of act deemed unlawful practice

A violation of any provision of this act shall be unlawful practice pursuant to P.L.1960, c. 39 (C. 56:8-1 et seq.).

L. 2007, c. 293, s.4, eff. Aug. 1, 2008.

56:8-179. Report to governor and legislature

No later than 18 months after the date of adoption of regulations implementing this act, the division shall issue a report to the Governor and the Legislature, pursuant to section 2 of P.L.1991, c. 164 (C: 52:14-19.1), on the activities of the division, including their quantitative results, in enforcing this act and any recommendations for additional legislation regulating the industry.

L. 2007, c. 293, s.5, eff. Aug. 1, 2008.

56:8-180. Rules and regulations

The Director of the Division of Consumer Affairs shall adopt, pursuant to the “Administrative Procedure Act”, P.L. 1968, c. 410 (C.52:14B-1 et seq.), any rules and regulations necessary to effectuate the purpose of this act.

L. 2007, c. 293, s.6, eff. Aug. 1, 2008.

56:8-181. Effective date of act; applicability

This act shall take place on the first day of the seventh month next following enactment, but the director may take such anticipatory action in advance of that date as may be necessary for the timely implementation of this act. This act shall not apply to prepaid calling cards and point-of-sale materials related to those prepaid calling cards printed prior of the effective date. The act shall apply to any prepaid calling card after the effective date and to any advertisement, promotion, point-of-sale material or voice prompt that is created, aired, printed, distributed, or otherwise disseminated on or after the effective date.

L. 2007, c. 293, s.7, eff. Aug. 1, 2008.

Money order

56:8-182. Money order; dormancy fee

a. Notwithstanding any other provisions of law to the contrary, a money order sold after the effective date of P. L. 2007, c. 326 (C. 56:8-182 et seq.) shall retain full value until presented for payment, or shall have all conditions and limitations, as permitted in paragraphs (1) and (2) of this subsection, disclosed to the purchaser of the money order at the time of purchase, as provided in subsection b. of this section.

(1) No dormancy fee shall be charged against a money order within 12 months immediately following the date of the sale.

(2). An issuer of a money order may charge a dormancy fee against a money order, as permitted by this subsection, of not more than $2.00 per month.

b. The terms of any dormancy fee applicable to a money order, as permitted by subsection a. of this section, shall be disclosed by an issuer to a consumer by:

(1) written notice of the dormancy fee on the money or the sales receipt for the money order; and

(2) written notice on the money order or the sales receipt for the money order, of a telephone number which the consumer many call for information concerning any dormancy fee.

c. As used in this section, “dormancy fee” means a charge imposed against the value of a money order due to inactivity.

L. 2007, c. 326, s.1, eff. April 12, 2008.

56:8-183. Unlawful practice and violation

It shall be unlawful practice and a violation of P.L.1960, c. 39 (C.56:8-1 et seq.) to violate the provision of this act.

L. 2007, c. 326, s.2, eff. April 12, 2008.

56:8-184. Division of Consumer Affairs; promulgation of regulations

The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall promulgate regulations pursuant to the “Administrative Procedure Act”, P.L. 1968, c. 410 (C.56:14B-1 et seq.), to effectuate the provision of this act.

L. 2007, c. 326, s.3, eff. April 12, 2008.

Consumer Protection Leasing Act

56:12-60. Short title

1. Sections 1 through 8 and sections 11 through 14 of this act shall be known and may be cited as the "Consumer Protection Leasing Act."

L. 1994. C. 190, s. 1.

56:12-61 Definitions

2. As used in sections 1 through 8 and sections 11 through 14 of this act:

"Adjusted capitalized cost" means the agreed upon amount which serves as the basis for determining the periodic lease payment and a portion of the lessee's early termination liability, computed by subtracting from the gross capitalized cost any capitalized cost reduction.

"Business day" means every day other than a Saturday, a Sunday, or a day on which State-chartered banks in New Jersey are required to be closed.

"Capitalized cost reduction" means any payment made by cash, check, rebates or similar means that are in the nature of down payments made by the lessee and any net trade-in allowance granted by the lessor at the inception of the lease for the purpose of reducing the gross capitalized cost but does not include any periodic lease payments due at the inception of the lease or all of the periodic lease payments if they are paid at the inception of the lease.

"Director" means the Director of the Division of Consumer Affairs in the Department of Law and Public Safety.

"Division" means the Division of Consumer Affairs in the Department of Law and Public Safety.

"Fair market value commercial lease" means a contract or other agreement

between a lessor and a lessee in which the vehicle is to be used primarily for business or commercial purposes and which provides an option for the purchase of the vehicle by the lessee from the lessor at its fair market value at the end of the lease term.

"Fleet lease" means a contract or other agreement between a lessor and a lessee entered into after the effective date of this act and in which the vehicles are to be used primarily for business or commercial purposes that is either: a written agreement for the use of at least two vehicles that includes an agreement for an option to use at least one additional motor vehicle; or a written agreement for the lease of five or more vehicles.

"Gross capitalized cost" means the amount, which, when reduced by the amount of the capitalized cost reduction, equals the adjusted capitalized cost. The gross capitalized cost shall include, the cost of the vehicle and, without limitation, taxes, registration, license, acquisition, assignment and other fees and charges for insurance, for a waiver of the contractual obligation to pay certain liability in the event the motor vehicle is damaged, stolen or otherwise lost, for accessories and their installation, for delivering, serving, repairing or improving the motor vehicle and for other services and benefits incidental to the lease. It may also include, with respect to a vehicle or other property traded-in in connection with a lease, the unpaid balance of any amount financed under an outstanding vehicle loan agreement or vehicle retail installment contract or the unpaid portion of the early termination obligation under any other obligation of the lessee.

"Lease" means a contract or other agreement between a lessor and a lessee, other than a fleet lease, a fair market value commercial lease, or a TRAC lease, entered into after the effective date of this act for the use of a motor vehicle by the lessee for a period of time exceeding 120 days, whether or not the lessee has the option to purchase or otherwise become the owner of the motor vehicle at the expiration of the lease. A lease shall not be deemed to be a retail installment contract, as defined in subsection (b) of section 1 of P.L.1960, c.40 (C.17:16C-1), unless the lessee, for no or for a nominal consideration, becomes the owner, or has the option of becoming the owner, of the motor vehicle at the end of the term of the lease.

"Leasing dealer" means a person who, in the ordinary course of business, offers or enters into motor vehicle leases or who in the course of any 12-month period offers or enters into more than three motor vehicle leases. The term "leasing dealer" shall not include a person to whom a lease is assigned by a leasing dealer.

"Lessee" means a person who leases a motor vehicle under a lease.

"Lessor" means a leasing dealer who holds title to a motor vehicle leased to a lessee under a lease or a leasing dealer who holds the lessor's rights under the lease or a person to whom a lease is assigned. "Motor vehicle" or "vehicle" means a motor vehicle as defined in R.S.39:1-1, except the living facilities of motor homes.

"Purchase option price" means total cost to the lessee, excluding sales tax, to purchase the motor vehicle at the end of the lease term. "Residual value" means the projected fair market value of the motor vehicle at the end of the lease term.

"TRAC lease" means a contract or other agreement between a lessor and a lessee which contains a "terminal rental adjustment clause," as that provision is defined in subsection (h) of 26 U.S.C. s.7701.

L. 1994. C. 190, s. 2; amended 1999, c. 293

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56:12-62. Lease requirements

3. Every lease:

a. Shall be in writing and contain all of the terms and conditions of the lease agreement between the lessor and the lessee and shall be signed by the lessor and lessee;

b. Shall state the names and addresses of all parties, and the phone number of the leasing dealer. If the dealer knows the identity of the party to whom the leasing dealer intends to assign the lease, the dealer shall include in the lease the name, address and telephone number of the assignee. If the leasing dealer does not include the name, address and telephone number of the assignee in the lease, the dealer or the assignee shall, promptly upon assignment, mail or personally deliver to the lessee the name, address and telephone number of the assignee;

c. Shall state the dates when the lease is executed by the parties;

d. Shall identify the lease with the term "lease" in 14-point bold type and shall be in a style and format to be determined by the director by regulation;

e. Shall be completed in full without any blank spaces to be filled in after the lease is signed by the lessee;

f. Shall specify the periodic basis or intervals when the lease payments shall be payable;

g. Shall provide the following information concerning the conditions of the lease:

(1) Whether or not the lessee has the option to purchase the motor vehicle at the end of the lease term, and if so, either:

(a) the purchase option price, or

(b) the method for ascertaining the purchase option price. If the lease includes a method for determining the purchase option price, and that method is based upon an amount set forth in a publication, the identity of the publication and the classification contained within the publication to be used, shall be included. If the publication ceases to exist, the lessor shall immediately notify the lessee of that fact and inform the lessee of the identity of the comparable publication which will be utilized to ascertain the purchase option price. If a method for ascertaining the

purchase option price not set forth in a publication is included in the lease, the lease shall set forth a good faith estimate of the amount, using that method;

(2) The total amount of all payments required at the inception of the lease term, including any refundable security deposit , any trade-in allowance and any nonrefundable payment such as a down payment or capitalized cost reduction, required at the beginning of the lease, or a statement that no payment is required at the beginning of the lease;

(3) The number of periodic payments to be paid during the term of the lease and the amount of each payment;

(4) A description of the standards to be used by the lessor in determining excessive wear or damage, and any liability the lease imposes upon the lessee at the end of the term of the lease, including any liability which may be imposed upon the lessee because of excessive wear or damage of the motor vehicle and any disposition costs imposed upon the lessee;

(5) (a) If the lease contains a purchase option, the total cost of the lease, assuming there is no default and that the lessee exercises the purchase option at the end of the term of the lease , which shall be the sum of: (i) the total amount of all payments required at the beginning of the lease; (ii) the total amount to be paid in periodic payments during the term of the lease; (iii) the amount of any liability the lease imposes upon the lessee at the end of the term of the lease; and (iv) the purchase option price.

(b) If the lease does not contain a purchase option or if the purchase option price is not set forth in the lease, the total fixed cost of the lease, which shall be the sum of (i), (ii) and (iii) of subparagraph (a) of this paragraph.

(c) For purposes of calculating the total cost of the lease under subparagraph (a) of this paragraph or the total fixed cost of the lease under subparagraph (b) of this paragraph, the amount of the refundable security deposit and insurance shall be excluded;

(6) The formula which shall be used by the lessor to calculate the total liability of the lessee if the lease is terminated by the lessee;

(7) The residual value of the vehicle;

(8) The total number of miles or the number of miles per month or year which the vehicle may be driven without additional charge as permitted under the terms of the lease, and the charge per mile for the miles driven in excess of that permissible mileage;

(9) The liability of the lessee in the event the motor vehicle is damaged, stolen or

otherwise lost. In the event the motor vehicle is damaged, stolen or lost and is deemed a total loss by the insurance company, and the lease contains a provision whereby the difference between the insurance proceeds and the amount due under the terms of the lease shall be waived if the lessor receives the insurance proceeds and if the lessee has otherwise complied with all other promises contained in the lease (including, where applicable, the requirement that the lessee pay the deductible under any insurance coverage), the lease shall disclose that the lessee shall have no further liability. Otherwise, the lease shall disclose the option on the part of the lessee to purchase from the lessor or from a third party, either insurance or damage waivers, if available, to indemnify him for the difference between the insurance proceeds and the amount due under the terms of the lease;

(10) The gross capitalized cost of the vehicle, the capitalized cost reduction and the adjusted capitalized cost when the cost of the vehicle for the purpose of calculating the gross capitalized cost exceeds the manufacturer's suggested retail price; and

h. Shall provide the following information concerning the motor vehicle to be leased:

(1) If the odometer reads in excess of 1,000 miles, an explanation of the prior use of the motor vehicle using the following terms, as applicable: personal, family or household, demonstrator, livery, daily rental, police, prior wreckage, unknown; provided that the lessor may insert "unknown" only if the lessor does not know the prior use of the motor vehicle;

(2) The odometer reading at the beginning of the lease term;

(3) The make, model, and year;

(4) The number of engine cylinders;

(5) Whether the transmission is automatic or manual;

(6) Whether the brakes and steering mechanism are power assisted or manual;

(7) Whether or not the vehicle is air conditioned;

(8) The vehicle identification number of the vehicle; and

(9) If the vehicle is required to have a Monroney label, the manufacturer's suggested retail price as set forth on the Monroney label.

L. 1994. C. 190, s. 3.

56:12-63. Disclosures, addendum

4. The disclosures required by subsections g. and h. of section 3 of this act may be made in the lease or in an addendum to the lease. If the required disclosures are made in

an addendum to the lease, the addendum shall refer to the lease, and shall be separately signed by the lessee prior to signing the lease.

L. 1994. C. 190, s. 4.

56:12-64. Compliance with federal requirements as disclosure

5. Compliance with the requirements of the federal "Consumer Leasing Act of 1976," Pub. L. 94-240 (15 U.S.C. s.1667 et seq.) and Federal Reserve Board Regulation M, 12 CFR s.213, to the extent that they are substantially similar to the requirements of this act, as the same may be amended from time to time, shall constitute compliance with subsections f. and g. of section 3 of this act.

L. 1994. C. 190, s. 5.

56:12-65. Default; death of lessee

6. a. If a lessee is 15 days or more in default of the periodic payments due on the lease and the lessor wishes to declare a default and cancel or terminate the lease, the lessor shall personally deliver to the lessee or send by first class, certified mail at the lessee's last known address as shown on the records of the lessor, a notice of cancellation. A lessee who is in default under a lease solely for failure to make a payment required by the lease shall have the right to reinstate the lease, subject to the provisions of this section. If the lessee has the right to reinstate the lease, the notice of cancellation shall provide that the lessee has 15 days to reinstate the lease by paying all past due periodic payments, late fees and other amounts due under the lease, and, if the motor vehicle has been repossessed, the cost to the lessor of repossessing, storing and transporting the motor vehicle. Such costs may include a reasonable attorney's fee and court costs, if actually incurred by the lessor and if provided for in the lease. Upon payment within the 15-day period to the lessor of the amounts due, the lessor shall reinstate the lease as if the lessee had not been in default of payment. The lessor shall not be required to reinstate a lease more than once during the term of the lease. The lessee has no right to reinstatement if the default is for any reason other than or in addition to the failure to make a payment required by the lease.

b. In the event of the death of a lessee before the expiration of a lease, there shall be no default if the lessee's surviving spouse continues to make payments to the lessor in accordance with the terms of the lease notwithstanding the death of the lessee.

L. 1994. C. 190, s. 6.

56:12-66. Appraisal for repair or replacement of parts, or reduced value

7. a. Where the lessee is liable at the end of the lease term for charges for excessive wear and damage to the motor vehicle, the lease (or the addendum) shall contain a statement that the lessee may obtain at the end of the lease term, at the lessee's expense, a professional appraisal of the amount required to repair or replace parts or the amount which the excessive wear and damage reduces the value of the vehicle. This

professional appraisal shall be performed by an independent third party agreed to by the lessee and the lessor, which appraisal shall be final and binding on the parties.

b. Within 10 business days of the return of the motor vehicle to the lessor, the lessor shall mail or deliver to the lessee an invoice for amounts claimed by the lessor for excess wear and damage. The invoice shall contain in 10 point bold face type a notice of the lessee's right under subsection a. of this section to obtain an independent appraisal of excess wear and damage. The notice shall also provide that: (i) the lessor must be advised in writing within seven business days following the earlier of the date of the mailing or delivery of the invoice if the lessee elects to obtain an independent appraisal; (ii) any such appraisal must be conducted within ten business days following the date that the lessor is notified of the lessee's election; and (iii) that if the lessee fails to notify the lessor within the time allotted that the lessee has elected an independent appraisal, the lessor's invoice will be deemed to be final and binding on the parties.

c. Within 15 business days after the lessee's obligations under the lease have been determined and satisfied, which shall include but not be limited to, the lessee's liability for excess wear and damage under this section, the lessor shall credit to the lessee's account or mail to the lessee any refund of any security deposit due to the lessee.

d. Nothing in this section shall limit the lessee's obligation for any charge for excess mileage as provided in the lease.

L. 1994. C. 190, s. 7.

56:12-67. Credit check on lessee; right to review contract

8. a. No leasing dealer may permit a prospective lessee to take possession of a motor vehicle subject to a lease if such lease is contingent upon the approval of the lessee's credit unless the lessee is provided with, and acknowledges receipt of a notice on a separate page from any other notice, term or condition of the lease, which provides substantially the following: NOTICE: YOUR LEASE IS SUBJECT TO CREDIT APPROVAL. IF YOUR CREDIT IS NOT APPROVED YOU MUST RETURN THE VEHICLE. The notice may contain the name, address, phone number and logo of the leasing dealer, and shall contain an acknowledgement by the lessee of the receipt of the notice.

b. (1) No lease shall bind a lessee or lessor unless both the lessee and lessor have had one business day to review the lease contract before the signing of the contract.

(2) No leasing dealer may permit a prospective lessee to take possession of a motor vehicle subject to a lease unless the lessee is provided with a conspicuous notice which provides substantially the following: NOTICE: THE LESSEE AND THE LESSOR SHALL BE ENTITLED TO REVIEW THE CONTRACT FOR ONE BUSINESS DAY BEFORE SIGNING THE CONTRACT IMMEDIATELY ADJACENT TO THE SIGNATURE LINE OF THE CONTRACT.

c. The leasing dealer shall complete the credit check of the prospective lessee within 5 business days of both the leasing dealer and lessee signing the lease.

L. 1994. C. 190, s. 8.

56:12-68. Consumer awareness program

11. The director shall implement a consumer awareness program which shall advise consumers of the requirements, protections and benefits provided by this act.

L. 1994. C. 190, s. 11.

56:12-69. Rules and regulations

12. The director shall promulgate rules and regulations pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C.52:14B-1 et seq.) as may be needed to effectuate the purposes of this act.

L. 1994. C. 190, s.12.

56:12-70. Violations as unlawful practices

14. It is an unlawful practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) to violate any provision of this act.

L. 1994. C. 190, s. 14.